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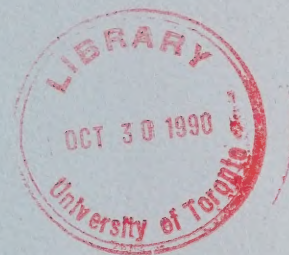
# ENVIRONMENTAL ASSESSMENT BOARD

VOLUME: 246

DATE: Wednesday, October 17, 1990

BEFORE:

A. KOVEN	Chairman
E. MARTEL	Member



FOR HEARING UPDATES CALL (TOLL-FREE): 1-800-387-8810

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HEARING ON THE PROPOSAL BY THE MINISTRY OF NATURAL  
RESOURCES FOR A CLASS ENVIRONMENTAL ASSESSMENT FOR  
TIMBER MANAGEMENT ON CROWN LANDS IN ONTARIO

IN THE MATTER of the Environmental  
Assessment Act, R.S.O. 1980, c.140;

- and -

IN THE MATTER of the Class Environmental  
Assessment for Timber Management on Crown  
Lands in Ontario;

- and -

IN THE MATTER of an Order-in-Council  
(O.C. 2449/87) authorizing the  
Environmental Assessment Board to  
administer a funding program, in  
connection with the environmental  
assessment hearing with respect to the  
Timber Management Class  
Environmental Assessment, and to  
distribute funds to qualified  
participants.

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Hearing held at the offices of the Ontario  
Transport Board, Britannica Building, 151  
Bloor Street West, 10th Floor, Toronto,  
Ontario, on Wednesday, October 17th, 1990,  
commencing at 9:00 a.m.

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VOLUME 246

BEFORE:

MRS. ANNE KOVEN  
MR. ELIE MARTEL

Chairman  
Member



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1442	Two-page letter dated July 3, 1990 from MNR District Manager of Tweed District to Director of Environmental Assessment Branch.	44332
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1 ---Upon commencing at 9:00 a.m.

2 MADAM CHAIR: Good morning. Please be  
3 seated.

4 You are back, Mr. Freidin?

5 MR. FREIDIN: I'm back in the saddle, but  
6 just for a short ride though.

7 MADAM CHAIR: How long?

8 MR. FREIDIN: Hopefully only ten minutes.

9 MADAM CHAIR: Go ahead.

10 THOMAS C. HUTCHINSON, Resumed

11 CONTINUED CROSS-EXAMINATION BY MR. FREIDIN:

12 Q. Yesterday, Dr. Hutchinson, we were  
13 talking at some length about the Nykvist and Rosen  
14 article and the interpretation of that article as to  
15 what happened with the pH.

16 And in fairness to you, I felt that we  
17 should go back to those Maliondo papers perhaps that  
18 you wanted to go to. I said that I would let you do  
19 that, I forgot and went on to the next area, but during  
20 that cross-examination you said that you had somehow  
21 relied on Maliondo, and I believe there was something  
22 in Maliondo that you wanted to say about that  
23 discussion.

24 A. No.

25 Q. Can I ask you -- so I take it then

1       that there is nothing in the Maliondo papers then that  
2       you feel would be useful to go to in terms of assisting  
3       the Board?

4                   A. Well, we've already introduced the  
5       Maliondo article for the Board and the discussion of it  
6       I think is highly pertinent and if the Board wishes, I  
7       would draw their attention yet again to the discussion  
8       in the Maliondo article.

9                   Q. Well, that's really what I want to  
10      do. I don't want to -- you know, we went on to the  
11      Nykivist and Rosen article and we talked about what  
12      happened in terms of pH measurements there.

13                  A. Right.

14                  Q. And I got the impression through the  
15      cross-examination that you felt that the Maliondo  
16      papers indicated perhaps the measurements went  
17      different ways. Did I get the wrong impression?

18                  A. No, the Maliondo article points out  
19      that the neutralizing ability that's generated by the  
20      foliage, particularly in terms of slash, is significant  
21      and, therefore, if you leave less of that on site you  
22      remove some of that neutralizing ability, and it  
23      depends on species and sites and so on.

24                  Q. All right.

25                  A. And they point out that particularly



1 for black spruce, white spruce and balsam fir that  
2 would be of special concern.

3 Q. Now, that's exactly what I want to  
4 do, I didn't want to leave the Board with the  
5 impression that somehow the Nykvist and Rosen was the  
6 only thing I was dealing with because that was the  
7 article that you referred to in your paper.

8 Let's go to the Exhibit 1409 then where I  
9 think you're referring to, and is the point that you're  
10 making the one on page 29, and actually I think it  
11 starts down on the bottom of page 28 of Maliondo where  
12 it says -- take a look at page 28, this is -- all  
13 right, and if we start at the bottom of page 28 it  
14 says:

15 "Increased soil acidification attributed  
16 to whole-tree harvesting...", and they  
17 refer to Nykvist and Rosen, and we have already been  
18 through that and I don't want to belabour the  
19 interpretation of that article any further, but it  
20 says:

21 "Increased soil acidification attributed  
22 to whole-tree harvesting may increase  
23 mobilization of aluminum and hydrogen and  
24 loss of base cations. The extent of this  
25 acidification will vary with site

quality and with species composition.  
Regardless of these two factors, however,  
acidification induced by whole-tree  
harvesting partly results from the  
reduced neutralization of acidity in the  
precipitation owing to the loss of base  
cations contained in the crown. In  
contrast, slash from crown components  
left on the site during conventional  
harvesting may continue to neutralize  
atmospheric acid inputs. The results of  
this study suggests that branches and  
foliage components represent a  
substantial amount of stand base cations.  
Most of the components that are rich in  
base cations would be removed from the  
logging area during the whole-tree  
harvesting. The impact of such removals  
may be higher for black spruce, white  
spruce, balsam fir than for other  
species."

Now, is that the section that you were  
referring to?

A. That's the one I just referred to,  
yes.

1                   Q. All right. And are there any  
2 others -- and again in fairness, I want your view to be  
3 fully before the Board. I understand that you're  
4 saying that the removal of these slash would remove  
5 some base cations which could have an effect on  
6 buffering acidification of the site.

7                   Is there anything else in these Maliondo  
8 papers in relation to the Nykvist and Rosen sort of  
9 topic about acidification that you feel should be  
10 brought to the Board's attention?

11                  A. No.

12                  Q. So that they have a full picture?

13                  A. The main point that I was making is  
14 the removal of foliage removes a substantial amount of  
15 bases. This depends on species.

16                  Q. Yes.

17                  A. And this reduces the neutralizing  
18 ability and we won't get back into what the ultimate  
19 effect of that is on pH, but there's a reduced  
20 neutralizing ability.

21                  Q. All right, yes.

22                  A. That means there's the potential for  
23 increaed hydrogen ion generation and aluminum  
24 generation, and if the pH is already low; that is, less  
25 than about 4.2 where you've got increased aluminum

1 generation, then you're are going to get increased  
2 aluminum toxicity.

3 Q. All right. Now, is there anything  
4 else? I want to be completely fair to you, sir. Is  
5 there anything else in either this Maliondo paper or  
6 the 1988 Maliondo paper which you have not had a full  
7 opportunity to bring specifically to the attention of  
8 the Board on this issue?

9 A. In the Maliondo paper?

10 Q. Yes.

11 A. Well, the next paragraph goes on  
12 about some things that we haven't really discussed,  
13 concerned with altered microclimate.

14 Q. But on the issue of --

15 A. Well, that increases the potential  
16 for acidification.

17 Q. All right. So they say:

18 "Whole-tree harvesting also increases  
19 soil acidification by altering  
20 microclimate conditions...", and they go  
21 on and they expand on that.

22 A. Right.

23 Q. All right. Is there anything else?

24 A. In this paper that I'm referring to?

25 Q. Yes.

1                   A. Well, there's a table which shows  
2                   here the compositions of the various species that they  
3                   have looked at at their 25 sites in New Brunswick.

4                   Q. And this is the one that tells you --  
5                   that adds up how much is in the foliage as opposed to  
6                   the stem?

7                   A. It compares the species and shows you  
8                   the composition of merchantable tree components.

9                   Q. Okay. Now --

10                  A. Can we come to the point, Mr.  
11                  Freidin?

12                  Q. Well, the first point was, I wanted  
13                  to be fair to you; secondly, do any of these studies in  
14                  this report on this issue or in the other Maliondo  
15                  paper that may talk about this topic actually measure  
16                  whether pH right after harvest in the soil went up or  
17                  down; do you know?

18                  A. Many of these, I mean apart from  
19                  the --

20                  Q. Other than Nykvist and Rosen, do any  
21                  of the studies measure whether the pH in soil right  
22                  after harvest went up or down?

23                  A. I don't know.

24                  Q. Okay. Let's assume, sir, -- let's  
25                  assume that they do--



1 A. Okay.

2 Q. --measure and let's assume that one  
3 or more of them indicates that the pH went down right  
4 after harvest; i.e., there was an acidification of the  
5 soil after harvest, in that situation it would  
6 indicate, if we look at the Nykvist and Rosen paper and  
7 we looked at those papers, the bottom line would be  
8 some studies show that the pH goes up after harvest and  
9 some studies show that pH goes down after harvest; that  
10 would be what we'd be left with; correct?

11 A. If you're talking about what happens  
12 to pH, that would be true.

13 Q. Okay. Am I correct that these  
14 articles that are talking about this subject matter  
15 discuss the difference in terms of acidification or  
16 potential acidification between full-tree and  
17 tree-length, but they do not compare that subject  
18 matter in terms of what happens after full-tree and  
19 after fire. I can break that into two questions.

20 A. I understand the question.

21 Q. Am I correct?

22 A. Yes.

23 Q. All right. So they don't look at  
24 what happens after fire versus what happens after  
25 full-tree, they say what happens after full-tree as

1       opposed to bole-only?

2                   A.   That's right.

3                   Q.   Okay.  Do you get base cations  
4       produced from the decomposition of slash?

5                   A.   You get them released, yes.

6                   Q.   Do you get base cations produced and  
7       released from the decomposition of the forest floor?

8                   A.   Yes, you get some release.

9                   Q.   Do you get -- all right.  If you have  
10      lesser vegetation on the site after harvest that is  
11      living and it drops its leaves and it becomes part of  
12      the forest floor, then when that stuff decomposes, it  
13      will in fact release base cations as well?

14                  A.   As it decomposes, mm-hmm.

15                  Q.   If you want to look or examine,  
16      therefore, the potential for base cation production  
17      after full-tree harvest and after fire, would you agree  
18      that it would be important to look at the pools of  
19      nutrients that were on the site after full-tree  
20      harvesting and after fire?

21                  A.   If you want to do -- for what  
22      purpose, I'm sorry, can you...

23                  Q.   Well, let's not forget the purpose.  
24      If you want to say -- if you want to look at the  
25      potential of a site -- all right.  You have got a site

1 and you want to know what's the potential for base  
2 cation production on this site--

3 A. Right.

4 Q. --after fire and what would it be  
5 after full-tree harvesting, would you agree that you  
6 would have to look at the pools of nutrients which  
7 would be on the site after both cases?

8 A. That's right.

9 Q. Because it is the pools of nutrients  
10 which is the source of the base cation release; right?

11 A. Yes, that is about it.

12 Q. Now, therefore, would you agree, sir,  
13 that if you wanted to compare the effect on a site --  
14 let me put that just different. If you wanted to  
15 determine the significance of full-tree harvesting as  
16 opposed to the natural disturbance of fire in terms of  
17 base cation production--

18 A. Right.

19 Q. --you would then have to compare the  
20 flux from all the pools on the one hand after full-tree  
21 and on the other hand after fire?

22 A. What do you mean by -- can I just ask  
23 you what you mean by flux in that context?

24 Q. Does the word flux have any meaning  
25 for you?

1                   A. Yes, it does but, you know, it has a  
2                   variety of meanings.

3                   Q. For the purpose of this discussion  
4                   let's assume by flux I mean the rate at which nutrients  
5                   become exchangeable. Would it be important then, if  
6                   you wanted to say what's the significance of full-tree  
7                   harvesting as opposed to fire in terms of base cation  
8                   production, would you agree that you would have to not  
9                   only look at the pools but you would have to look at  
10                  flux from all those pools in one case as opposed to the  
11                  other?

12                  A. Yes.

13                  Q. If you wanted to determine the  
14                  significance of the man-made disturbance, in this case  
15                  say harvest, from an ecological point of view, would  
16                  you agree, sir, that what you would want to do is  
17                  compare the situation after harvest with what happens  
18                  in the natural ecosystem; i.e., after natural  
19                  disturbance?

20                  A. You would need to do that, yes.

21                  MR. FREIDIN: Thank you. Those are my  
22                  questions.

23                  MADAM CHAIR: Thank you, Mr. Freidin.

24                  MS. SWENARCHUK: Just one brief question  
25                  arising from that, before I move to my list, Dr.

1 Hutchinson.

2 RE-DIRECT EXAMINATION BY MS. SWENARCHUK:

3 Q. Mr. Freidin just asked you, if you  
4 want to look at the potential for base cation  
5 production after full-tree harvest and fire, you agree  
6 it's important to look at pools and nutrients on the  
7 sites after each, you said: Yes.

8 He said because, to the effect, that  
9 pools are the source of the base cations release, and  
10 you said: Yes, that's part of it.

11 A. Right.

12 Q. Are there other parts?

13 A. Well, there will be a substantial  
14 difference in microbial populations following fire  
15 inevitably versus full-tree harvesting or versus  
16 conventional harvest. And there's another part of the  
17 balance which is involved and, that is, you've got to  
18 consider what the cations and anion balances are. So,  
19 you know, the microbes will be generating activity in  
20 the slash which will release bases and some of the  
21 generation will lead to removal from site of things  
22 like nitrates which we've been through before.

23 MS. SWENARCHUK: This is a list of the  
24 documents I'm going to use and it might save time later  
25 if you would like to just -- and that's the order, if



1       you would like to put them together in that order.

2                       MR. HUFF: (handed)

3       ---Discussion off the record

4                       MS. SWENARCHUK: Now, the first issue I  
5       want to deal with, Dr. Hutchinson, arises from  
6       questions put to you by Mr. Freidin with regard to  
7       Exhibit 1421 which is the Carlisle and Methven article.

8                       A. Right.

9                       Q. And I want to go back to Mr.  
10      Cassidy's examination which is when this article was  
11      initially introduced.

12                      A. Right.

13                      Q. And if you'll recall, this is the  
14      whistling in the wind discussion, and he referred you  
15      to Table 4 on page 6 of this article and to the  
16      examples of nutrients and precipitation in North  
17      America and asked for your comments as to whether the  
18      amount of reserves shown in that table amounted to  
19      whistling in the wind. And your --

20                      MR. FREIDIN: Excuse me, they weren't  
21      reserves, it was precipitation.

22                      MS. SWENARCHUK: Excuse me, all right.

23                      Q. The amount of nutrients reflected  
24      here--

25                      A. Right.

1 Q. --amounted to whistling in the wind  
2 and your answer, in our notes, says to the effect that  
3 if substantial reserves were lost through full-tree  
4 logging, reserves can't be replenished through  
5 full-tree input, and that was your answer on that  
6 discussion.

7 Now, in your opinion, does the fact that  
8 this table is reproduced in an article on the use of  
9 energy forests change that conclusion? Shall I repeat  
10 the question?

11 A. Right, yes.

12 Q. Does the fact that this table is  
13 reproduced in an article on the use of energy forests  
14 as opposed to full-tree logging change your conclusion?

15 A. No.

16 Q. Now, would you look at page 8 of the  
17 article where the discussion occurs, and take your  
18 time, and I would like you to read through page 8 and  
19 perhaps to the end of the discussion on the next page,  
20 and then I'm going to ask you whether the authors  
21 consider both long and short rotations in their  
22 comments on these pages?

23 A. I'm sorry, Ms. Swenarchuk, can you  
24 tell me where you want me to start reading?

25 Q. Okay. I will ask you to read -- the

1 entire discussion.

2 A. Okay.

3 Q. All right. And read it with this in  
4 mind. My question will be: Whether the authors  
5 consider both long and short rotations in their  
6 comments.

7 A. Right.

8 Q. All right. So my question is, in  
9 their discussion, are the authors considering both long  
10 and short rotations in their comments?

11 A. Yes, they are, they're considering  
12 both long and short rotations in terms of full-tree  
13 harvesting. And the reference they use is to --  
14 Kimmins' reference is to full-tree harvesting too,  
15 so -- and that's for longer rotations, so I think it's  
16 clear that it just isn't bole.

17 And they have a number of points which,  
18 some of those points that I've been expressing similar  
19 concerns about. I draw your attention to the bottom of  
20 page 8 on the right-hand side there:

21 "Monitoring soil fertility nutrient flux  
22 should be an integral part of all  
23 intensive forestry systems particularly  
24 where short rotations are involved."

25 Which also means where longer rotations

1 are involved too.

2 Q. Thank you.

3 A. And they also point out that it can  
4 be misleading even to assume that there's no effective  
5 relatively small percentage removal of nutrients from  
6 site, that that could be misleading, and they quote  
7 Kimmins on it.

8 Q. Is there anything else you want to  
9 add from that discussion?

10 A. Well, this is the third paragraph  
11 down on the left-hand side:

12 "The effects of harvesting on soil  
13 fertility are not just a matter of  
14 nutrient accounting...", which we've  
15 tended to focuss on here.

16 "Repeated harvesting of leaves and  
17 branches of both short and long rotations  
18 removes from the forest considerable  
19 amounts of carbohydrate and protein, the  
20 organic matter upon the soil  
21 microorganisms (the driving force of soil  
22 processes) depend. We can only guess at  
23 the effects of removing this organic  
24 matter from the site."

25 And they go on to say that has an

1 important role. Not many studies have been done on  
2 that aspect.

3 Q. This paper was from 1979, Dr.  
4 Hutchinson. Is it your view that more is known on the  
5 subject now than was known in 1979?

6 A. Oh, yes. It's tended to strongly  
7 emphasize, some of those concerns are expressed in  
8 there about nutrient removal from site, and we've had  
9 some discussions about the organic removal too.

10 Q. Now, I would like to turn next to the  
11 two Maliondo articles 1990 and 1988; the 1990 article  
12 being Exhibit 1409.

13 Turning to the 1988 article first of all,  
14 to pages 20 and 21, we will be looking at that, Dr.  
15 Hutchinson, and in the 1990 paper we will be looking at  
16 pages 28 to 30. Now, you've reviewed the latter one  
17 with Mr. Freidin this morning?

18 A. Right.

19 Q. With regard to the 1988 Maliondo  
20 paper now, I would like you to review, if you wish, the  
21 discussion in this paper and particularly direct you to  
22 page 20, the second full paragraph on the right-hand  
23 column:

24 "The results of this study and those of  
25 Weetman and Webber, Morrison (1980), and



1 Foster and Morrison (1982) seem to  
2 indicate that the indiscriminate practice  
3 of intensive harvesting of natural stands  
4 on poor soils could lead to site  
5 degradation resulting from increased soil  
6 acidification. The increased removal of  
7 base cations and aluminum mobilization  
8 may adversely affect the long-term  
9 stability and productivity of these  
10 sites. This effect will likely be  
11 particularly aggravated by increased acid  
12 input from the atmosphere."

13 And the conclusions on page 21 appear to  
14 follow from that. Now, if you want to take time to  
15 re-read these discussion pages, feel free, but my  
16 question is this: Given the review Mr. Freidin did with  
17 you of the Nykvist and Rosen article, and given the  
18 other sources you have referred to on the soil  
19 acidification question including these two papers, and  
20 they have cited other authors themselves, does it  
21 remain your opinion that full-tree logging can lead to  
22 increased soil acidification?

23 A. Yes, and that would be compared to  
24 conventional harvesting. If you're removing large  
25 amounts of your most base rich components of a tree;

1       that is, especially the foliage, it's simply a truism  
2       that that is removing neutralizing ability.

3                   MR. MARTEL: Is there a difference  
4       between the types of soils? As I read Maliondo he says  
5       intensive harvesting on poor soils could lead to site  
6       degradation. They're not just talking about  
7       acidification there, I presume?

8                   THE WITNESS: No.

9                   MR. MARTEL: But the question put to you  
10      by Ms. Swenarchuk, does that include on all sites?

11                  THE WITNESS: Well, the potential on all  
12      sites for accelerated -- or decreased neutralization  
13      and accelerated liberation of potentially toxic  
14      aluminum is true of all sites. Obviously where you've  
15      got nutrient poor sites the consequences of nutrient  
16      removal would be the greatest in terms of potential for  
17      sustainability, but also they point out that on  
18      nutrient poor sites the potential for acidification is  
19      greater too, which is a double kind of whammy against  
20      nutrient poor sites, it really emphasizes to my mind  
21      that we need to be extremely cautious in the way we  
22      handle those sites.

23                  And they are emphasizing the point that  
24      whole-tree harvesting on nutrient poor sites is  
25      hazardous to sustainability, and if we did attempt to

1 move towards shorter rotations, obviously that would  
2 make the situation worse; and if we move to shorter  
3 rotations on somewhat richer sites, then we could run  
4 into the same problem as long rotations on poor sites,  
5 because over a hundred years or whatever, if you  
6 harvest twice you will be removing twice the capital  
7 nutrients from the sites.

8 MS. SWENARCHUK: Q. Now, I want to turn  
9 now to the Mahendrappa article which was Exhibit 424,  
10 if you have that one, Dr. Hutchinson.

11 A. Yes. Can I just make one comment on  
12 this--

13 Q. Absolutely.

14 A. --that hasn't really been raised. In  
15 areas where you've got --

16 MR. FREIDIN: Which document are you  
17 looking at?

18 THE WITNESS: Well, I'm just  
19 commenting -- it comes from the Maliondo '88 article  
20 where they're talking about soil acidification. The  
21 ability to neutralize incoming acid precipitation is  
22 going to be especially important where you have high  
23 acid precipitation coming in.

24 I mean, that's gain self-evident, so we  
25 would be especially concerned about that in the

1        hardwood forests in the areas where, the sort of Dorcet  
2        region, where we've got substantial acid inputs. And  
3        the paper that we were looking at yesterday, which was  
4        Paul Addison's paper with the sulphate graphs which had  
5        some relevance to this for the boreal forest, can't be  
6        taken directly to relate to the hazards of forests  
7        because those sulphate loading parameters have been  
8        developed for lake systems. So I think we should be  
9        aware of that. I'm sorry, Ms. Swenarchuk.

10                    Q. Don't be sorry at all.

11                    A. You want Mahendrappa?

12                    Q. No, let's stay with Addison for a  
13        moment, which was not on my list because I wasn't  
14        planning to get to it, but are you suggesting then  
15        that -- let me put it this way: What are you  
16        suggesting about, is it Dr. Addison's?

17                    A. Yes.

18                    Q. What are you suggesting then about  
19        Dr. Addison's conclusion in that paper which was, if I  
20        recall - and I don't have it here - that you need not  
21        be concerned about negative forest -- boreal forest  
22        impacts from acid precipitation?

23                    A. Well, I don't know if he went as far  
24        as to say that. I don't propose we get it out again,  
25        but my point is this: That there was a sort of

1       extrapolation done from sulphate loadings of 20  
2       kilograms per hectare per year under the ice effects  
3       which they had on there, and the implication was that  
4       because the 20 really hit mainly the Great Lakes/St.  
5       Lawrence Forests rather than the boreal, therefore, the  
6       boreal -- we could feel good that there wouldn't be a  
7       problem.

8                   But we have to superimpose on that site  
9       fertility because the hardwood forests by and large are  
10      more nutrient rich than the boreal, so we have to look  
11      at soil sensitivity superimposed on that; if you like,  
12      we have to have sort of overlays of sensitivity of soil  
13      types against inputs of acid precipitation. And that  
14      means we can't be quite as reassured as we might be  
15      just looking at that map and imagine it tells us  
16      something directly about the boreal. It doesn't, it  
17      tells us sulphate loading and the sulphate loading --  
18      the magic 20 is a kind of saw-off that the Canadian  
19      government has come to especially so that we can  
20      negotiate with the United States to maintain, if you  
21      like, lake safety.

22                   So that was how it was -- I mean, that  
23      was the rationale that was developed for lake systems  
24      and it's not -- you can't just jump to boreal forests  
25      from that and we have to take into account site



1 fertility there, so it's neutralizing ability, and we  
2 would increase the potential for site acidification  
3 from acid precipitation if we go for whole-tree  
4 harvesting. I guess that's my point.

5 If we're having a general interlude,  
6 maybe I can add another comment.

7 Q. Feel free.

8 A. Well, everybody gets to note those  
9 down. It was said yesterday, and I think it's true,  
10 that there is little evidence of direct visible damage  
11 from acid precipitation in the boreal forest, certainly  
12 in the tree species, I would say there's no evidence,  
13 and that's pretty well true for the hardwood forests  
14 too. When we get down to the feather mosses and  
15 lichens, there is some evidence that they have been  
16 affected directly by acid precipitation.

17 Q. In the boreal?

18 A. Yes, in the boreal. However, a lot  
19 of the concern about acid precipitation in terms of  
20 tree -- forest effects is not that you'll see visible  
21 symptoms, but that you will have chronic effects which  
22 will reduce site productivity, and that wouldn't  
23 exhibit itself in foliar symptoms and things of that  
24 kind.

25 So the absence of foliar symptoms is

1       reassuring in that we don't have acute effects, but  
2       it's not totally reassuring in that we might develop  
3       chronic effects which would ultimately lead, if that  
4       were to occur, to decreased annual increment, wood  
5       growth.

6                   Q.   Let's turn now to Mahendrappa.

7                   A.   All right.

8                   Q.   And you might want to turn as well to  
9       your witness statement 1, page 21 at the bottom which  
10      is where you commented on this article or the use to be  
11      made of this article in your own witness statement. I  
12      will just give you a moment to review that.

13                  A.   Right.

14                  Q.   Now, yesterday I guess it was Mr.  
15      Freidin asked you to look at page 564 of the article  
16      and review this 564 and 565 which are the summary and  
17      conclusions of the article, and he gave you an  
18      opportunity to review them. And I won't review the  
19      questions in detail again, but could I just ask you  
20      whether that review and discussion that you had with  
21      Mr. Freidin regarding this article and its summary and  
22      conclusions changes, No. 1, the opinion you state on  
23      page 21 of your witness statement?

24                  A.   No. The paper is dealing with the  
25      normal processes of nutrient cycling and it's a review

1 of them, if you like, in an intact forest system.

2 Q. And did your further review and  
3 questioning by Mr. Freidin based on this paper change  
4 your assessment of the impacts of full-tree harvesting?

5 A. No, it doesn't relate to them  
6 directly. The point is that if you have full-tree  
7 harvesting or even conventional harvesting, then that  
8 causes a substantial change in the microbial  
9 populations in the soils and this will change the rates  
10 of nutrient release and all kinds of other things that  
11 we've discussed at length.

12 So that would represent a major  
13 intervention into the normal forest system and you  
14 would have very different microbial populations and  
15 that's, of course, why you get slash decomposing and  
16 things like that.

17 Q. Now, if we could turn our attention  
18 to the Bormann and Likens article, I guess the classic  
19 one: Effects of Forest Cutting and Herbicide Treatment  
20 on Nutrient Budgets in the Hubbard Brook Watershed  
21 Ecosystem, 1970. Do you have it?

22 A. Yes.

23 Q. And Mr. Freidin referred to this  
24 article with you and reviewed a number of aspects of  
25 it; what it is, what it isn't, how the forest

1 considered in it compared to Ontario forest, how the  
2 treatments compared to timber management treatments.

3 What I want to ask you is to indicate for  
4 the Board what, in your view, is the importance and  
5 relevance of this study for the Board's considerations?

6 A. Well, just before I do that, I should  
7 say we never settled one issue; that is, whether the  
8 trees were left on site when this clearcut was done in  
9 the initial study, and the trees were left on site, and  
10 they emphasize that they tried to minimize the site,  
11 the disturbance as little as possible, they tried to  
12 cause minimum disturbance.

13 And then they did things to prevent  
14 regeneration from roots and suckers and things of this  
15 kind, they deliberately for two years sprayed with  
16 herbicides. So the questions that they were trying  
17 to --

18 MADAM CHAIR: I think that was three  
19 years.

20 THE WITNESS: Three years, I'm sorry.  
21 The questions that they were trying to address was:  
22 Does removal of vegetation on site affect water  
23 quality, runoff rates, hydrology and things of this  
24 kind, and it certainly does.

25 So this is one of the early



1 demonstrations that there's a tight relationship  
2 between hydrology, including water quality, and forest  
3 removal. And all the other studies that have been done  
4 subsequently have come down in the same direction. I  
5 mean, again, it's a self-evident thing that if we  
6 remove a lot of the vegetation from a site we will  
7 alter the hydrology.

8 In terms of nutrient removal, this would  
9 be the most extreme, because they've left all of the  
10 material on site, they're on slopes - and though I  
11 don't think there's a discussion of erosion in the  
12 paper - this represents the sort of extreme end of a  
13 whole series of studies all of which are in the same  
14 direction.

15 And I don't think it pretends that it  
16 uses exactly the forest practices used in the boreal  
17 forest in Ontario, that is not the point of introducing  
18 it and that was never their point and so on.

19 There is no roads involved in it on site  
20 and they said they took great care to limit erosion.  
21 So it's very difficult to say that the reason that they  
22 have this excessive runoff was simply because of  
23 erosion and construction activities. That was not the  
24 case.

25 MS. SWENARCHUK: Q. Anything else you



1 want to add, or is that...

2 A. I'm in agreement with comments that  
3 we've had discussions on that this represents one of  
4 the most extremes, maybe the extreme end of what's gone  
5 on in terms of nutrient loss, but all of the other  
6 studies that we have pointed out are in the same  
7 direction and it's kind of self-evident that that would  
8 happen.

9 And incidentally they did of course, as a  
10 result of the sorts of discussions we've had here, say:  
11 Well, let's do some other studies in which we look  
12 directly at actual clearcutting practices in a  
13 commercial way, they worked with the U.S. Forest  
14 Service. And Kimmins in his book discusses this, his  
15 book which I think is called Forest Ecology  
16 discusses --

17 Q. The most recent text, is that the  
18 1987 text?

19 A. Yes, that's right, which I don't have  
20 here with me.

21 Q. It is an exhibit.

22 A. Yes. And there's a table in there in  
23 which they actually compare - and I don't suggest that  
24 we all look at it, but maybe you want to - fifth  
25 chapter and it's page 123, 124, 125 the appropriate

1 places to look, and there's a table in there which is  
2 Table 5.20 in which they actually look at losses of  
3 calcium and nitrogen as two examples, comparing the  
4 devegetated watershed; that is, their first  
5 experiments, with commercial cuts in the same area  
6 Hubbard Brook.

7 And they confirm what we have said, that  
8 the first example gave you the greatest nitrogen and  
9 calcium loss from the site, but there was an increase  
10 in calcium and nitrogen loss from the commercial  
11 clearcuts too which is, I think, no surprise.

12 And if you add on -- Kimmins' point, if  
13 you add on the material removed from site in the  
14 harvested commercial clearcuts, then the amount which  
15 is lost from site in both the first Hubbard Brook study  
16 and in the commercial clearcuts is about the same. So  
17 the extra which goes into the streams in the first  
18 experiment, because they have left material on site, is  
19 taken off site in the commercial clearcuts, the loss to  
20 the site is about the same, and that table indicates  
21 that.

22 MR. MARTEL: Dr. Hutchinson, since we're  
23 dealing here with the most radical type of playing  
24 around with the ecology and everything out there in  
25 this experiment--

1 THE WITNESS: Right.

2 MR. MARTEL: --how do we take that and  
3 apply it to what we're doing in terms of forestry and  
4 harvesting and regeneration and everything else that  
5 goes with it in Ontario?

6 THE WITNESS: Right.

7 MR. MARTEL: Where here there are no  
8 limiting factors, they just destroy everything.

9 THE WITNESS: Right.

10 MR. MARTEL: And I don't think that's the  
11 case in Ontario. Now, how do we compare the two?

12 THE WITNESS: Well, as I say, there's a  
13 gradation all in the same direction from this extreme  
14 experiment. I think the best way to compare them,  
15 frankly, is through this table which is Table 5.20 in  
16 this particular paper.

17 MADAM CHAIR: Ms. Swenarchuk, what's the  
18 exhibit number for Kimmins book?

19 THE WITNESS: I've got a copy. I mean, I  
20 have his paper here, this page if people do want to  
21 look at this.

22 MS. SWENARCHUK: I will just check. I  
23 think it's 673.

24 MR. FREIDIN: Exhibit -- I'm sorry, what  
25 was the exhibit number?

1 MS. SWENARCHUK: We are verifying it.

2 MADAM CHAIR: We are checking on it, Mr.  
3 Freidin.

4 THE WITNESS: To answer your question  
5 very directly, in the clearcuts in Ontario, obviously  
6 with conventional harvesting we're taking nutrients off  
7 with the bole, that seems to be a fairly small quantity  
8 and I don't think anybody has suggested that that  
9 really affects the sustainability if we don't shorten  
10 rotations too much.

11 In terms of full-tree harvesting, which  
12 seems to be the predominant form now in the boreal  
13 forest in Ontario, then we are removing substantial  
14 quantities of nutrients from site.

15 In that original Hubbard Brook study they  
16 left the material on site and much of it ended up -- if  
17 you like, as a result of decomposition they ended up in  
18 the streams. So it's going off site in one case and  
19 the other ones we actually physically take it off site.  
20 It goes off site in both cases.

21 And if we don't take all of the slash off  
22 site and all of the foliage and so on, which is the  
23 intermediate situation with conventional harvesting,  
24 then we leave a lot of that material on site and from a  
25 nutritional point of view as a forest ecologist, then

1 that would be a much better system than the present  
2 practice of whole-tree harvesting. That's where we  
3 have potential nutrient problems.

4 So the concerns I'm expressing are with  
5 sites which could run into problems, and there's lots  
6 of those.

7 MS. SWENARCHUK: The Kimmins text is  
8 Exhibit 672, Madam Chair.

9 MADAM CHAIR: Thank you.

10 MR. FREIDIN: Is that the text as an  
11 exhibit, or a portion of the text?

12 MS. SWENARCHUK: The text.

13 MADAM CHAIR: It's Exhibit 672, Mr.  
14 Freidin, and Dr. Hutchinson is referring to page 123 to  
15 125.

16 THE WITNESS: That's right.

17 MR. CASSIDY: My records indicate that it  
18 is just a chapter, not the whole book that is an  
19 exhibit.

20 MADAM CHAIR: It's the chapter. Does  
21 that include pages 123 to 125?

22 MR. CASSIDY: No, it includes pages 68 to  
23 69, 81 and 115 to 118 by my records.

24 MADAM CHAIR: All right. Then let's make  
25 as an exhibit -- are you going to be referring to the



1 Kimmins book again, Dr. Hutchinson?

2 THE WITNESS: I don't think so.

3 MS. SWENARCHUK: He has referred to it  
4 throughout his testimony and I was operating on the  
5 assumption that the entire book was now an exhibit, not  
6 that I have one to file with the Board, I must say,  
7 but...

8 MADAM CHAIR: Well, why don't we do this,  
9 Ms. Swenarchuk, we will leave open an exhibit number  
10 and you could come back to the Board with a number of  
11 pages that we could excerpt and if there are many of  
12 them, we'll simply put the whole book in.

13 MR. FREIDIN: Madam Chair, I think with  
14 respect, the only thing we should exhibit, if we  
15 exhibit anything, are the pages that the witness has  
16 referred to.

17 MADAM CHAIR: All right. Well, Ms.  
18 Swenarchuk is saying Dr. Hutchinson has referred  
19 already to other pages other than 123 to 125. So if  
20 you could give us a list of those page numbers, we will  
21 reserve an exhibit number 1432.

22 ---EXHIBIT NO. 1432: Excerpt from Kimmins book  
23 entitled: Forest Ecology,  
24 referred to by Dr. Hutchinson in  
oral evidence.

25 MS. SWENARCHUK: The exhibit list --

1                   MR. FREIDIN: I would ask that these be  
2 portions that have been referred to in his oral  
3 evidence. The only reason I say that is because he  
4 referred to certain things in his oral evidence that I  
5 had an opportunity to cross-examine on.

6                   If he says: Well, I relied on other  
7 pages which he didn't even mention in his paper or his  
8 oral evidence, then I don't have that opportunity. So  
9 I would ask that that be kept in mind in producing  
10 documents.

11                  MS. SWENARCHUK: That's what I had in  
12 mind, Mr. Freidin.

13                  DR. HUTCHINSON: Can I just comment on  
14 that, Madam Chair?

15                  MADAM CHAIR: Yes, Dr. Hutchinson.

16                  THE WITNESS: I did in fact mention this  
17 table during -- I think during cross-examination I said  
18 this table existed, I don't think I gave page numbers  
19 for it.

20                  MS. SWENARCHUK: I don't know if there's  
21 another way of clearing this up, but the exhibit list  
22 prepared by the reporters indicates that Exhibit 672 is  
23 a book entitled: Forest Ecology by Kimmins, University  
24 of British Columbia, 1987. That's our basis for  
25 thinking that the entire text was the exhibit.

1                   MADAM CHAIR: Well, we will clear up what  
2                   the official exhibit consists of and let you know this  
3                   afternoon, and then we'll be waiting for the page  
4                   numbers from Dr. Hutchinson's evidence and it will be  
5                   Exhibit 1432. It will either be excerpts from Kimmins  
6                   or we might -- or if the whole book is already an  
7                   exhibit, we will just -- I think we will still keep  
8                   this exhibit number as excerpts of Kimmins book for of  
9                   Dr. Hutchinson's evidence.

10                  MS. SWENARCHUK: All right. Fine. And  
11                  just to be clear on it, we wait until the transcripts  
12                  are available to do that check.

13                  MADAM CHAIR: Fine. Thank you.

14                  MR. CASSIDY: Just to assist who ever is  
15                  going to confirm that, my records - and I don't claim  
16                  these are totally accurate - is that that Exhibit 672  
17                  was entered in Volume 115 page 19320, whomever is going  
18                  to --

19                  MADAM CHAIR: Mr. Pascoe thanks you, Mr.  
20                  Cassidy.

21                  MS. SWENARCHUK: Q. Now, I would like to  
22                  turn next, Dr. Hutchinson, to the Martin, Pierce,  
23                  Likens and Bormann article: Clearcutting Affects  
24                  Stream Chemistry in the White Mountains of New  
25                  Hampshire.

1 A. Right.

2 Q. And Mr. Freidin discussed this  
3 question with you -- this article with you yesterday  
4 briefly, he referred you to page 8 of the article.

5 MADAM CHAIR: Where are we, Ms.  
6 Swenarchuk?

7 MS. SWENARCHUK: This is the next article  
8 on the list, the Martin, Pierce, Bormann and Likens  
9 article on clearcutting, stream chemistry effects.

10 MADAM CHAIR: 1986?

11 MS. SWENARCHUK: Yes, 1986. And we are  
12 looking at page 8 of the article which Mr. Freidin  
13 referred to yesterday.

14 Q. And Mr. Freidin referred then to the  
15 issue of losses of nutrients and particulate matter due  
16 to erosion were not considered but are likely to have  
17 been small with the citation of the previous Bormann.

18 Now, with regard to the question of  
19 clearcutting effects on streams, would you please look  
20 at page 2 of the article, Dr. Hutchinson, Table 1?

21 A. All right.

22 Q. And as I read it, the first part of  
23 the article puts out the site characteristics of the  
24 uncut sites; is that correct, the reference section?

25 A. Yes.

1 Q. Yes. And the second part of the  
2 table from 6 to 14 describes the sites that had been  
3 completely clearcut?

4 A. Right.

5 Q. And the first column there, total  
6 area, as I understand it, refers to the total area  
7 clearcut?

8 A. Yes.

9 Q. Now, I'm not sure whether this is in  
10 acres or hectares -- it's in hectares, but as I read  
11 it, the sizes of the clearcuts here were as reflected  
12 in that first column, 10, 4, 2, 4, 24, 14, 20, 14 and 8  
13 hectares.

14 A. I would have to have a look at that,  
15 I don't know. It says under this study, page 1, each  
16 area that they used for commercial clearcuts, fourth --  
17 fifth line down:

18 "Each area included at least one clearcut  
19 watershed and in two cases several  
20 clearcuts."

21 MR. FREIDIN: I'm sorry, where are you  
22 looking at Dr. Hutchinson?

23 THE WITNESS: Page 1 under the study.

24 MS. SWENARCHUK: First paragraph on the  
25 right-hand side.



1 THE WITNESS: That defines what they were  
2 looking at. The fourth line down:

3 "Each area included at least one clearcut  
4 watershed and in two cases several  
5 clearcuts (Table 1). These sites had  
6 well-defined watersheds with perennial  
7 headwater streams, and all stems more  
8 than 5 cm diameter at breast height had  
9 been cut. Each area had an adjacent or  
10 nearby uncut watershed that served as a  
11 reference..."

12 Q. So the sizes of the cuts then are  
13 listed in Table 1; is that correct?

14 A. Yes, yes.

15 Q. Now, my question is: Would your  
16 concerns about nutrient losses through hydrological  
17 impacts of clearcutting in Ontario be reduced if  
18 clearcuts here were of a size comparable to these?

19 A. Well, as percentages of watersheds,  
20 yes. Obviously the more of a watershed you expose at  
21 any one time then the greater, you know, you increase -  
22 I won't get into a discussion of proportional and  
23 proportionate - but you increase the potential for  
24 nutrient loss and increased hydrological loss, volume  
25 of water lost from site. So the greater the total area

1 and the greater, especially the percentage, the greater  
2 the nutrient potential loss is from site.

3 MADAM CHAIR: Excuse me, Dr. Hutchinson.  
4 I can't calculate this quickly, but when we look at No.  
5 1 which says Gale River 49 hectares, that's the size of  
6 the watershed, and then beneath that points 8, 9, 10  
7 and 11 are the number of hectares clearcut in that  
8 watershed area?

9 MS. SWENARCHUK: 49 hectares is the  
10 control group and that is an uncut part of the  
11 watershed.

12 MS. SWENARCHUK: Uncut.

13 MADAM CHAIR: Yes. Well, I would like to  
14 know per cents, what per cent of the watershed is being  
15 cut. We've talked about --

16 MS. SWENARCHUK: The percentages are  
17 here. I believe they're described as completely  
18 clearcut, Madam Chair, but there is --

19 MR. FREIDIN: That's slope.

20 MADAM CHAIR: That's slope. What's the  
21 area, percentage of area cut?

22 THE WITNESS: If we look at No. 5,  
23 Hubbard Brook, 13, that's 13 hectares and it looks as  
24 if in 19 --

25 MADAM CHAIR: Hold on, 13. That's the

1 reference area?

2 THE WITNESS: Yes.

3 MADAM CHAIR: You mean 6?

4 MS. SWENARCHUK: So an uncut area is No.  
5 6, Hubbard Brook; is it not?

6 MADAM CHAIR: No, Hubbard Brook No. 6 is  
7 completely clearcut. I want to know what per cent of  
8 that watershed area that clearcut is?

9 THE WITNESS: Okay. Well, this is only  
10 my calculation right now, so -- No. 5 is Hubbard Brook.  
11 It appears to have a total area --

12 MADAM CHAIR: Of 13.

13 THE WITNESS: Of 13, and No. 6 is the  
14 Hubbard Brook cut area and they're calling this a  
15 complete clearcut of 10 hectares.

16 Now, I believe that they've cut the  
17 complete watershed there and they've got a reference  
18 Hubbard Brook which would be an adjacent area of 13.  
19 So if you like it's either -- no, as well we would  
20 really have to take three of these. It's either 10 out  
21 of 23 or 10 out of 10.

22 MADAM CHAIR: Mm-hmm. Okay, I can...

23 MS. SWENARCHUK: Isn't it 10 out of 10;  
24 isn't that what completely clearcut means?

25 THE WITNESS: If you're looking at what

1 is completely clearcut that means 10 out of 10, and the  
2 reference one is 13 uncut.

3 MADAM CHAIR: Sorry, Ms. Swenarchuk, what  
4 were you --

5 MS. SWENARCHUK: Are you satisfied with  
6 the information you have, Madam Chair?

7 MADAM CHAIR: Yes.

8 MS. SWENARCHUK: He's answered my  
9 question.

10 Q. Thank you. Can we go to Exhibit  
11 1422, Dr. Hutchinson, which is the Clearcutting and  
12 Biogeochemistry of Streamwater in New England.

13 A. Right, I've got it.

14 Q. Now, I believe you made a comment to  
15 Mr. Freidin with regard to this paper that there are  
16 lots of problems with the paper.

17 A. Right.

18 Q. Would you indicate for the Board now  
19 what those problems are as you see them?

20 MR. FREIDIN: I don't recall --

21 MS. SWENARCHUK: That's a direct quote.

22 MR. FREIDIN: Okay.

23 THE WITNESS: Well, it's lack of  
24 information, that's the problem, to try and judge this,  
25 there's a lack of information in the context of some of

1 the other papers that we discussed.

2 The area of the watersheds I don't  
3 believe is given, the time of year that the cuts were  
4 made is not given, it doesn't say any specifics about  
5 the cuts, and it doesn't say if herbicides were used,  
6 and I also believed that the elements were given in  
7 concentrations but we didn't know the flow rate. So  
8 that was a concern in interpretation.

9 MS. SWENARCHUK: Q. Now, what is the  
10 problem with knowing the concentrations without knowing  
11 the flow rates?

12 A. Well, you can't work out total  
13 removed per site. It's fine if you're just wanting to  
14 know how it affects water quality, say for drinking  
15 water standards which are given in concentrations, but  
16 if you're wanting to know nutrient loss per site, it  
17 isn't sufficient.

18 Q. Now, one last question on it. Page  
19 689, the last page in the reproduction, the first  
20 paragraph on the left under Management Implications,  
21 the sentence says:

22 "Clearcutting small blocks or strips over  
23 only part of a watershed, the normal  
24 practice in most of New England,  
25 minimizes water quality changes, compared



1 to other types of clearcutting."

2 Does the paper analyse hydrological  
3 changes related to large area clearcutting as is done  
4 in Ontario?

5 A. I don't think so. What it points out  
6 under those management implications is that, as we  
7 discussed with Mr. Freidin, that:

8 "Stream chemistry changes following  
9 clearcutting were not large enough to  
10 cause concern for public water  
11 supplies...

12 Among forest types in New England...",  
13 this is the end of the management implications,

14 "...the northern hardwoods of central  
15 New Hampshire seem most susceptible  
16 to increased stream nutrients following  
17 cutting."

18 So they're saying that they have  
19 recognized that water quality in terms of drinking  
20 water standards has not been affected, and I don't  
21 think anybody has ever said it was, maybe they have  
22 somewhere but I haven't come across it, but there's a  
23 potential for increased nutrient losses from sites.

24 Q. Now, if you would turn to --

25 MR. FREIDIN: The article doesn't say

1 that.

2 THE WITNESS: Sorry?

3 MS. SWENARCHUK: Excuse me.

4 MR. FREIDIN: Okay, excuse me. Okay.

5 THE WITNESS: It says:

6 "...the northern hardwoods of New England  
7 seem most susceptible to increased stream  
8 nutrients following cutting."

9 MS. SWENARCHUK: Q. Okay. If you could  
10 turn now to Exhibit 1431 which was the set of  
11 interrogatories that Mr. Freidin filed.

12 A. Okay. So that would be under MNR,  
13 which interrogatory would it be?

14 Q. Well, he referred you yesterday to  
15 MNR Question 20 related to Panel 1A and he asked you  
16 questions with regard to -- do you have that?

17 A. I've got the Question 20: Does FFT  
18 agree in terms of --

19 Q. That's with regard to Panel 1, so  
20 Panel 1A is what we're looking at.

21 A. Oh, I'm sorry. Okay. Right.

22 Q. Right. Now, your answer to that  
23 interrogatory begins with:

24 "Fire makes nutrients immediately  
25 available..."

1                   And you had a discussion with Mr. Freidin  
2 yesterday about that phrase.

3                   A. Yes.

4                   Q. And this was in the context I believe  
5 of hot fires and cooler fires. Now, on page 11 of  
6 witness statement 1A, I believe you were discussing the  
7 same phenomenon when you talk about, on the 7th line  
8 down:

9                   "...fire oxidises organic compounds...the  
10 result is a sudden burst of availability  
11 of both anions and cations."

12                  Now, I just wanted to clarify with you,  
13 is this true in fires of varying sizes?

14                  A. It's true of fires, period. The  
15 amount that's made available will depend on the site  
16 and what's on site and also on the temperature of the  
17 fire, but the principle of course attends for all  
18 fires.

19                  Q. Now, you wrote on pages 1 to 16 of  
20 this witness statement of the difference between fire  
21 effects and clearcutting effects, and you summarized  
22 some of those differences on page 16 in the first  
23 complete paragraph of the page.

24                  A. Yes.

25                  Q. And having completed the

1 cross-examination, I want to ask you: Is it now still  
2 your opinion that these effects as between clearcutting  
3 and fire are as written in the witness statement?

4 A. Yes.

5 MADAM CHAIR: Shall we take our break,  
6 Ms. Swenarchuk?

7 MS. SWENARCHUK: I just have one  
8 remaining question, Madam Chair, and --

9 MADAM CHAIR: To your re-examination?

10 MS. SWENARCHUK: That's right. One  
11 remaining question area, I wouldn't think it would take  
12 more than five to ten minutes at the utmost, and Mr.  
13 Lindgren would be asking for time -- or requiring time  
14 to set up for Panel 2 immediately after.

15 MADAM CHAIR: All right.

16 MS. SWENARCHUK: So perhaps 10:30 should  
17 do.

18 Q. Now, on the question of effects of  
19 full-tree logging, Dr. Hutchinson, Mr. Freidin  
20 helpfully identified some errors in the witness  
21 statement and you have discussed full-tree logging in  
22 detail with Mr. Freidin and Mr. Cassidy.

23 You had set out your views in detail in  
24 the witness statement. Have Mr. Freidin's or Mr.  
25 Cassidy's questions and examination caused you to

1 change your opinion of the effects of full-tree  
2 logging?

3 A. No, I think the situation as I see it  
4 from my reading of the literature is that full-tree  
5 logging has a number of effects compared with  
6 conventional harvesting which are likely to be  
7 detrimental and these particularly include the nutrient  
8 losses, but they also include -- it's very important  
9 that we recognize the organic -- the biomass lost from  
10 the site, the organic lost from the site is very  
11 important, and the potential for acidification --  
12 increased acidification compared with conventional  
13 harvesting.

14 And those are -- so then we need to say:  
15 Well, where would those situations perhaps be worst  
16 from a management point of view, and the nutrient loss  
17 problem is likely to be worse where you already have  
18 nutritionally poor sites.

19 And as I've emphasized, these sites would  
20 include some of the sandy outwash sites, sands with  
21 shallow soils, some of the organic sites, lowlands  
22 sites which have a potential for waterlogging and so  
23 on - it's in the witness statement - but none of our  
24 discussions have changed my opinion of that or that of  
25 apparently a large number of other people, including



1 scientists in Ontario who work in the boreal forest,  
2 that full-tree harvesting has the distinct potential  
3 for degrading sites from the point of view of nutrient  
4 status and, therefore, it's against the direction that  
5 I believe we should be going of sustainability.

6 Q. Now, Ms. Seaborn put to you in her  
7 cross-examination Exhibit 1425, which is entitled:  
8 Full-Tree Harvesting Disadvantages from a Forester's  
9 Viewpoint by Ian Morrison. Do you have that, please?

10 A. Yes.

11 Q. I would like you to turn to page 54  
12 of this excerpt which I believe summarizes Dr.  
13 Morrison's concerns regarding disadvantages of  
14 intensive harvesting.

15 I might say, just for brevity sake, that  
16 he talks about what we call whole-tree as well as  
17 full-tree, I only want to focus on -- I will exclude  
18 the references to full-tree.

19 But here, talking about intensive  
20 harvesting, if we look on page 54 at the bottom of the  
21 lefthand column, I want to put to you what I see as six  
22 issues raised by Dr. Morrison as disadvantages and ask  
23 whether you're in agreement with him.

24 Fourth line down in the column, the first  
25 of these is:

1 "Drain of elements increasing greatly  
2 with full-tree systems and even more so  
3 with complete tree systems."

4 Do you agree?

5 A. Yes.

6 Q. The second is:

7 "Increased removal of decomposable  
8 organic matter from the site."

9 A. Yes.

10 Q. Agree? The third one he attributes  
11 largely to complete tree system, that's soil  
12 destabilization, so we'll leave that.

13 Then the first full paragraph in the next  
14 column:

15 "Slash on site, though an impediment to  
16 mechanical site preparation and planting,  
17 in some instances serves to ameliorate  
18 the effect of temperature, air movement  
19 and precipitation on a microsite."

20 Destruction of microsite then could be  
21 construed as a fourth disadvantage. Do you agree?

22 A. Yes, and that would get to one of the  
23 point that I've been attempting to make through the  
24 witness statement. Destruction of microsite is likely  
25 to lead to destruction of mycorrhizal associations

1 because you're going to cause substantial increases in  
2 surface soil temperature and the mycorrhizae associated  
3 with the absorbing root systems, so they're in the  
4 surface areas of the forest floor and many of these  
5 fungi are really rather sensitive to that.

6 So that if we destroy the -- well, slash  
7 protects them to some extent. If we take the slash off  
8 as well, that exposes the forest floor, so you've  
9 increased solar radiation, that means we're going to  
10 get very large temperature incursions which is  
11 completely inhibitory to mycorrhizal formation.

12 If we wipe out the mycorrhizae, we're  
13 going to set back the potential for forest's uptake  
14 intake into the trees, nutrient uptake into the trees.

15 Q. He then discusses:

16 "The more intensive the harvesting  
17 operation in general...", this is his  
18 fifth disadvantage:

19 "...the fewer opportunities there are for  
20 advanced growth to form any portion of  
21 the new stand."

22 Do you agree with that?

23 A. I'm sorry, I just want to read that  
24 one. I didn't quite follow you. Yes.

25 Q. And then sixth:

1 "The removal of cone-bearing slash  
2 precludes the possibility that volunteers  
3 from that source will form a major part  
4 of the regrowth stand." The sixth  
5 disadvantage.

6 A. Right. So you would be taking off a  
7 high percentage of the cones which would otherwise be  
8 in the slash and which have the potential for releasing  
9 seed all the time if the slash is left on site.

10 MADAM CHAIR: Excuse me, Dr. Hutchinson.  
11 I don't understand Morrison's fourth point about  
12 advanced growth. Advanced growth is on the site when  
13 full-tree harvesting takes place and advanced growth  
14 can be destroyed by the harvesting technique or site  
15 preparation, but I don't understand the tie in with --

16 THE WITNESS: Well, he's suggesting that  
17 the more intensive the disturbance in full-tree  
18 harvesting, the less, if you like, of seedlings and  
19 saplings that would be left on site.

20 MADAM CHAIR: Because it would be  
21 destroyed by equipment?

22 THE WITNESS: Yes, yes.

23 MR. FREIDIN: Is the answer yes, that  
24 they would be destroyed by equipment?

25 THE WITNESS: They would be destroyed by

1 exposure to equipment, yes, exposure and equipment.

2 MR. FREIDIN: Thank you. I just wanted  
3 to make sure the answer was on the record.

4 MADAM CHAIR: Sorry. In the fifth point,  
5 could you go over that again, please?

6 THE WITNESS: The fifth one?

7 MADAM CHAIR: Sixth one.

8 THE WITNESS: Removal of cone-bearing  
9 slash, this one?

10 MADAM CHAIR: Yes.

11 THE WITNESS: Well, if you leave slash on  
12 site which contains a lot of branches and twigs, you  
13 also leave on site a lot of the cones. These are not  
14 totally dependent on fire for release of the seeds.  
15 There will be seed released from slash, especially if  
16 it's raised a little off the ground in the branches and  
17 so on, and so there could be a seed rain, there could  
18 be a seed input into the soil if you leave slash on  
19 site. That means, you have the potential for natural  
20 regeneration. It's increased compared to taking all of  
21 the cones and all of the material off site.

22 MADAM CHAIR: Yes. Certainly for spruce  
23 and so forth. You mentioned yesterday about jack pine,  
24 that there might be some natural seeding not dependent  
25 on--



1 THE WITNESS: Not dependent on --

2 MADAM CHAIR: --on fire or heat source?

3 THE WITNESS: Yes, that's right.

4 MADAM CHAIR: And so what you were saying  
5 was that the jack pine seed doesn't have to be --  
6 doesn't need a hot microsite, that somehow there would  
7 be a process that jack pine seeding would take without  
8 --

9 THE WITNESS: Yes. You get some jack  
10 pine regeneration if you leave slash on site.

11 MADAM CHAIR: From the decomposition of  
12 the --

13 THE WITNESS: In the same way you do with  
14 black spruce. So it's not a total dependency on fire.

15 MADAM CHAIR: But you're suggesting that  
16 that would be --

17 THE WITNESS: But if you take the cones  
18 off site, then you have removed that possibility of  
19 natural regeneration.

20 MADAM CHAIR: But you also said for the  
21 serotinous cones, seeding from other than heat sources  
22 would be a small part of the reproduction?

23 THE WITNESS: Normally it would be a very  
24 small part.

25 MR. FREIDIN: I think in his evidence,

1 Madam Chair, he referred to rot. That's the only  
2 evidence that he referred to in terms of slash on the  
3 forest floor, seeds and cones rotting.

4 MS. SWENARCHUK: And releasing seeds, as  
5 I recall.

6 MR. FREIDIN: Yes.

7 MADAM CHAIR: Yes.

8 MS. SWENARCHUK: Q. Now, could you move  
9 down that column --

10 A. Let's go back to that, since Mr.  
11 Freidin has raised that particular question. The point  
12 I'm making here is that if you have slash on site, then  
13 it's not all right down at ground level, so you will  
14 have slash which might be a metre or two metres off  
15 site. So some of the cones are off the ground and  
16 these will -- some of them will release some seeds  
17 which will go into the ground.

18 The ones that are down in the ground  
19 themselves will gradually rot and, of course, the other  
20 ones will eventually join them, but the main release I  
21 think in the early stages of your slash decomposition  
22 will be from the cones which are raised somewhat above  
23 the ground.

24 They will then join the others and rot  
25 and you get some more release, but that generally

1 doesn't seem to be so successful.

2 Q. Now, I want to ask your view of the  
3 remainder of this column. Now, reading from the  
4 sentence that begins:

5 "Therefore, as forest management in  
6 eastern Canada reaches the limit of  
7 allowable cut...", do you have that?

8 A. I'm sorry.

9 Q. "Therefore, as forest management in  
10 Canada...", still the Morrison article.

11 A. Oh, I'm sorry, I thought we were  
12 finished with it. Okay.

13 Q. Just about.

14 MS. SWENARCHUK: It's about an inch and a  
15 half from the bottom of the middle column, Madam Chair,  
16 Mr. Martel.

17 THE WITNESS: Right, yes.

18 MS. SWENARCHUK: Q. "Therefore, as forest  
19 management in eastern Canada reaches the  
20 limit of allowable cut, any overall  
21 increase in yield; that is, due to more  
22 intensive harvesting and utilization,  
23 must have costed against it any decrease  
24 in productivity that is due to one or all  
25 of the following: Inadequate

1 regeneration through failure to utilize  
2 advanced growth and volunteer wildlings,  
3 site class downgrading through organic  
4 matter or nutrient impoverishment or  
5 outright site loss."

6 Do you agree with that position?

7 A. Yes, and the allowable cut of course  
8 is dependent on productivity, and some of my concerns  
9 are that climate change and air pollution are likely to  
10 add to this, they're likely to be, if in any direction  
11 at all, they're going to be in an unfavourable  
12 direction.

13 That being the case, allowable cut should  
14 be considered in a somewhat conservative manner and the  
15 assumption certainly should not be made that full-tree  
16 harvesting is going to cause increased productivity and  
17 that air pollution is going to cause increased  
18 productivity, it's more likely it's going to go in the  
19 other direction.

20 MS. SWENARCHUK: Thank you. Those are my  
21 questions, Madam Chair, Mr. Martel.

22 MADAM CHAIR: Thank you, Ms. Swenarchuk.  
23 Thank you very much, Dr. Hutchinson.

24 THE WITNESS: Thank you very much. I  
25 appreciate the opportunity for appearing before you.

1 --- (Witness withdraws)

2 MADAM CHAIR: Thank you. The Board will  
3 be back at 11:00.

4 MS. SWENARCHUK: Thank you.

5 MADAM CHAIR: And Mr. Lindgren will be  
6 prepared?

7 MS. SWENARCHUK: Yes.

8 --- Recess taken at 10:35 a.m.

9 --- On resuming at 11:05 a.m.

10 MADAM CHAIR: Please be seated.

11 Mr. Lindgren, the Board will have to cut  
12 this hearing short a bit today. We are going to sit  
13 until 3:30, so if you could schedule that.

14 Thank you.

15 MR. LINDGREN: I will keep that in mind,  
16 Madam Chair, and we are ready to proceed with the lay  
17 witness evidence, Madam Chair, Mr. Martel.

18 As Ms. Swenarchuk indicated in her  
19 opening address, six of our lay witnesses are from  
20 northern Ontario, one is from Toronto, one is from  
21 Winnipeg, and in addition, we would point out that  
22 these witnesses represent different interests and  
23 different backgrounds from across the area of the  
24 undertaking.

25 For example, we will be calling two



1 remote tourism lodge operators, one from the Timmins  
2 district and one from the Sault Ste. Marie district.  
3 We are also calling two representatives from cottagers  
4 associations, one from the Timmins district and one  
5 from the Tweed district, and that individual is Mr.  
6 Paul Armstrong who is here this morning.

7 We are also calling an individual  
8 cottager from the Kenora district, and finally we are  
9 calling several Crown land recreationists, including a  
10 canoeist from Blind River district, a cross-country  
11 skier from the Sault Ste. Marie district, and an  
12 outdoorsman from the Sault Ste. Marie, Blind River and  
13 Chapleau districts.

14 And it's important, Madam Chair, to point  
15 out that these witnesses are not being paid by FFT to  
16 be here, they are here simply because they are  
17 concerned about the forest. They have all had to take  
18 time off work to be here, many of them will have to  
19 travel great distances and, in short, they are here  
20 because they believe and we believe that they have  
21 evidence that's relevant to the issues before this  
22 Board.

23 Now, the reasons why we're calling lay  
24 evidence is set out in paragraph 1 of the executive  
25 summary of witness statement No. 2, and I would like to

1 spend just a brief moment discussing those reasons  
2 since the proponent has questioned why this evidence is  
3 being led.

4 And put very simply, Madam Chair and Mr.  
5 Martel, this lay evidence is being led for four  
6 reasons. The first, that we want to present evidence  
7 of some actual environmental impacts associated with  
8 timber management within the area of the undertaking;  
9 secondly, we are intending to present evidence on the  
10 adequacy of the opportunities for public consultation  
11 and participation in the timber management planning  
12 process being proposed by the proponent; thirdly, we  
13 are calling this evidence in order to present evidence  
14 on the level of protection being accorded to non-timber  
15 values within the area of the undertaking; and,  
16 fourthly and finally, we are presenting this evidence  
17 in order to present testimony on the adequacy of the  
18 bump-up provisions that are being proposed by the  
19 proponent.

20 And, accordingly, the Board will be  
21 hearing evidence from people who have been actively  
22 involved in the timber management planning process and,  
23 moreover, in some cases, the Board will hear about  
24 important developments that have occurred since the  
25 filing of this witness statement in mid-July, 1990.

1                   And in this sense, Madam Chair and Mr.  
2       Martel, the Board will be hearing very recent and very  
3       relevant stories from the public, the people who own  
4       the forests of Ontario, and these are not old problems  
5       dealing with old planning procedures or old timber  
6       management practices, these are contemporary problems,  
7       the evidence is current and, on this point, I would  
8       like to move on to Mr. Paul Armstrong who is our first  
9       lay witness.

10                  Before I do that, there are a few  
11       housekeeping matters to attend to. We have to mark a  
12       few exhibits, and the first that I propose is the  
13       witness statement itself.

14                  MADAM CHAIR: That will be Exhibit 1433,  
15       Mr. Lindgren.

16                  MR. LINDGREN: Thank you.

17                  MADAM CHAIR: And it's the entire witness  
18       statement?

19                  MR. LINDGREN: That's correct. Perhaps  
20       that could be marked as 1433A and the errata sheet  
21       could be marked as 1433B, and that errata sheet has  
22       been distributed to the parties previously but I have  
23       extra copies here if anybody requires it.

24                  MR. MARTEL: Is that dated the 12th, Mr.  
25       Lindgren, October 12th?

1 MR. LINDGREN: That's correct.

2 ---EXHIBIT NO. 1433A: Witness statement for FFT Panel  
3 No. 2.

4 ---EXHIBIT NO. 1433B: Errata sheet dated October 12,  
5 1990 re: FFT Panel No. 2.

6 MR. LINDGREN: And Madam Chair, the next  
7 item to be marked is the FFT witness statement No. 2  
8 source book containing the documents relating to the  
9 witness statement, and I take it that will be Exhibit  
10 1434?

11 MADAM CHAIR: That's right, Mr. Lindgren.

12 ---EXHIBIT NO. 1434: Source book re: FFT Panel No. 2  
13 witness statement.

14 MR. LINDGREN: Madam Chair, that should  
15 be one of the black binders there. We filed one copy  
16 with the Board.

17 MADAM CHAIR: Yes.

18 MR. LINDGREN: And underneath that is the  
19 supplementary source book containing the photographs,  
20 and I would ask that that be marked as the next  
21 exhibit.

22 MADAM CHAIR: Exhibit 1435 will be the  
23 supplementary source book of photographs for Forests  
24 for Tomorrow's witness statement for Panel No. 2.

25 ---EXHIBIT NO. 1435: Supplementary source book re: FFT  
Panel No. 2 witness statement.

1 MR. LINDGREN: Thank you.

2 MADAM CHAIR: And how many photographs  
3 are in this, Mr. Lindgren?

4 MR. LINDGREN: I have not counted them,  
5 Madam Chair.

6 MADAM CHAIR: And we are still missing --

7 MR. LINDGREN: Mr. Oliver's will be filed  
8 separately.

9 MADAM CHAIR: Mr. Oliver's.

10 MR. LINDGREN: We can undertake to do  
11 that at the lunch break.

12 MADAM CHAIR: Thank you. And it also  
13 includes a videotape?

14 MR. LINDGREN: That's correct, Madam  
15 Chair.

16 MS. BLASTORAH: I'm sorry, did you say  
17 you were going to provide Mr. Oliver's photographs at  
18 the lunch break?

19 MR. LINDGREN: No, to count the number of  
20 photographs in Exhibit 1435.

21 MS. BLASTORAH: Oh, I'm sorry. Thank  
22 you.

23 MR. LINDGREN: And finally, before we  
24 begin, Madam Chair, I would like to file a package of  
25 interrogatories relating to Document No. 6 which is a



1 statement of evidence from Mr. Paul Armstrong. These  
2 have been distributed to the parties.

3 MADAM CHAIR: That will be Exhibit 1436.  
4 And could you read out the interrogatory numbers?

5 MR. LINDGREN: Yes, Madam Chair. It  
6 contains the interrogatories from OFAH No. 1 and No. 2;  
7 OFIA No. 6, and MNR No. 8, 12, 13, 17 and 22.

8 ---EXHIBIT NO. 1436: Package of interrogatories  
9 containing OFAH Nos. 1 and 2,  
10 OFIA No. 6, and MNR Nos. 8, 12,  
11 13, 17 and 22 re FFT Panel No. 2.

12 MR. LINDGREN: And, Madam Chair, the next  
13 item of business is to have Mr. Armstrong sworn

14 MADAM CHAIR: Mr. Armstrong, would you  
15 come forward, please.

16 PAUL ARMSTRONG, Sworn

17 DIRECT EXAMINATION BY MR. LINDGREN:

18 Q. Good morning, Mr. Armstrong.

19 A. Good morning, Mr. Lindgren.

20 Q. Now, I would like to review some  
21 introductory facts that are set out in your witness  
22 statement, Document No. 6. I understand that you are  
23 an insurance loss control inspector; is that correct?

24 A. That is correct.

25 Q. And can you explain for the purposes  
of the record what that is?

1                   A. Yeah. I work with the commercial  
2 division of the Canadian Insurance Company and I view  
3 commercial buildings and rate them for insurance  
4 premiums and loss prevention information.

5                   Q. And, Mr. Armstrong, I understand that  
6 you reside in Scarborough with your wife and children?

7                   A. That's correct.

8                   Q. And I also understand that your  
9 family owns cottage property on Lake Weslemkoon?

10                  A. Weslemkoon. Yes, it's my mother's.

11                  Q. Could you indicate on the map behind  
12 you the general location of the lake?

13                  A. This is Lake Weslemkoon and our  
14 cottage is approximately here.

15                  Q. And what's the nearest municipality  
16 or large centre that might be a relevant benchmark?

17                  A. The relevant benchmark would be  
18 Denbigh which, okay, is over on Highway 41 or Bancroft  
19 or Minden.

20                  Q. Okay, thank you. Could you flip the  
21 next map over, please.

22                  MR. LINDGREN: And, Madam Chair, I should  
23 indicate that this is an FRI map of Ashby Township that  
24 has been provided courtesy of Ministry of Natural  
25 Resources and we're grateful for that.

1                   And I would ask that that be marked as  
2           the next exhibit since extensive reference will be made  
3           to that map.

4                   MADAM CHAIR: That will be Exhibit 1437,  
5           and it's the FRI map for which...?

6                   MR. LINDGREN: It's Ashby Township within  
7           the Tweed Crown Management Unit.

8                   MR. MARTEL: What's the name of the  
9           township?

10                  MADAM CHAIR: Ashby.

11                  MR. LINDGREN: Ashby Township.

12                  MADAM CHAIR: A-s-h-b-y?

13                  THE WITNESS: Yes.

14                  MR. LINDGREN: And this indicates that  
15           this particular map was prepared on October 5th, 1990.

16           ---EXHIBIT NO. 1437: MNR FRI map for Ashby Township,  
17   prepared October 5, 1990.

18                  MR. LINDGREN: Q. And, Mr. Armstrong,  
19           could you indicate for the Board the location of your  
20           family's cottage property and perhaps you can just  
21           review where the lake is.

22                  A. Okay. The lake is this area over  
23           here which is also interconnected --

24                  MADAM CHAIR: Mr. Armstrong, could we ask  
25           you to stand on the other side. Thank you.

1                   THE WITNESS: I'm trying to make it so  
2                   everybody can see. Okay. This is Lake Weslemkoon here  
3                   and this is Otter Lake which is connected to Lake  
4                   Weslemkoon by a navigable waterway at this point and my  
5                   mother's cottage, okay, is located on the end of Mackie  
6                   Bay which is right there.

7                   MR. LINDGREN: Q. And you have marked  
8                   the location of your cottage in red marker?

9                   A. Yes, right there.

10                  Q. Thank you. And is that on Mackie  
11                  Bay?

12                  A. That is on the north end of Mackie  
13                  Bay.

14                  Q. Thank you. Can you briefly describe  
15                  when and why your family acquired this particular  
16                  cottage property?

17                  A. Briefly, the cottage property was  
18                  originally attempted to be purchased by my father in  
19                  1951 from the then Department of Lands and Forests.

20                  The reason for his purchase of it, he had  
21                  visited the lake on a hunting trip and he had been, if  
22                  I can digress a little bit, involved with the Boy  
23                  Scouts as a child in the 1920s and 30s, he was a member  
24                  of the Royal Canadian Air Force during the second world  
25                  war, he was a fighter pilot and he greatly enjoyed the

1 outdoors.

2                   However, I must say that when he was in  
3 the Air Force he lived in England, North Africa, Italy,  
4 Yugoslavia and France for a period of about three  
5 years, and during that period he lived almost  
6 exclusively in a tent, and by this time he decided that  
7 he would like to build some sort of property to have a  
8 solid roof over his head where he could enjoy the  
9 outdoors of the Province of Ontario without having to  
10 make use of a tent. He never wanted to see a tent  
11 again in his life.

12                   Q. Is there any particular reason why he  
13 selected Lake Weslemkoon?

14                   A. He selected it basically because it  
15 was one of the more picturesque and natural settings  
16 that he had seen in the Province of Ontario.

17                   At the time of his initial attempts to  
18 purchase the property, my mother and my father were  
19 living in St. Catharines between St. Catharines and  
20 Niagara-on-the-Lake, Ontario and in those days it was  
21 approximately a seven and a half hour drive to get to  
22 this location over somewhat, until -- well, in the last  
23 15, 20 years were very rough roads.

24                   Q. Is there road access to the cottage  
25 today?



1                   A. No, there is no road access to the  
2 cottage and the nearest road access to the family  
3 cottage is approximately seven miles over water at the  
4 south end of the lake.

5                   Q. Do you want road access to your  
6 cottage?

7                   A. No, we do not desire road access.

8                   Q. Can you briefly describe the types of  
9 uses that you and your family make of your cottage?

10                  A. We make use of the cottage property  
11 as a summer seasonal residence, it is not winterized.  
12 It's used for swimming, fishing, nature walks, boating,  
13 canoeing, just about anything that has to do with the  
14 outdoors during the summer months in the Province of  
15 Ontario.

16                  MR. MARTEL: Is anyone winterizing their  
17 cottages in that area?

18                  THE WITNESS: A few of the cottages are  
19 winterized, but I would say that the majority of the  
20 cottages are not.

21                  MR. LINDGREN: Q. How many cottages are  
22 on Lake Weslemkoon?

23                  A. There are approximately - and this  
24 number, if you look at some of the documents, might  
25 seem a little bit -- some of them say 150 cottages on

1 Lakes Weslemkoon, other documents indicate there are  
2 306 cottages on the lake, but some of the cottages are  
3 where there were two separate buildings owned by one  
4 family on a piece of property, and I think that is  
5 where the number digresses.

6 Some of the properties were properties  
7 that were relatively large, they contain more than one  
8 cottage on it, but it's family ownership of the  
9 different cottages on one property. And for the sake  
10 of cottages, people usually call a group of cottages  
11 one cottage, there's only one owner.

12 Q. And how many cottages exist on Otter  
13 Lake?

14 A. There are approximately 20 cottages  
15 on Otter Lake.

16 Q. Can you offer the Board a brief  
17 description of Otter Lake and Lake Weslemkoon area in  
18 terms of the flora and fauna that you have observed  
19 there?

20 A. Lake Weslemkoon is located on the  
21 Canadian Shield, it contains stands of both deciduous  
22 and conifer vegetation on the shorelines, there are  
23 large marshy areas in and around both lakes which  
24 contain just about every imaginable type of birds that  
25 can be found in the Province of Ontario.

1                   In the way of animals you can find deer,  
2       moose, bear, lynx, fox, wolves. And in the way of  
3       birds, there are herons, a considerable number of  
4       humming birds, the other normal songbirds that are  
5       located in this area of Ontario. In addition, there  
6       are also a large number of herons which are located in  
7       and around and they are quite visible, there are a lot  
8       of herons. There are also hawks, golden eagles and I  
9       have actually witnessed at least one bald eagle.

10                  Q. Okay, thank you. Now, I understand  
11       that the cottagers and residents of the area at some  
12       point established Lake Weslemkoon Conservation  
13       Association.

14                  Can you describe when the association was  
15       established and can you describe the aims and  
16       objectives of the association?

17                  A. Okay. The Lake Weslemkoon  
18       Conservation Association was originally a loosely knit  
19       group that was actually started in the 1930s on the  
20       lake, it was actually incorporated in the 1950s, and  
21       the goals of the association basically were to maintain  
22       the lake and the surrounding forest in a natural state  
23       and try and keep it in a state that would be beneficial  
24       to future generations.

25                  Q. Is there a reason why the association

1       called itself a conservation association as opposed to  
2       a cottagers association?

3                   A.   They are really more interested in  
4       conserving the lake for future generations than being a  
5       cottagers association.   The idea of having a cottagers  
6       association becomes one where it's more for social  
7       activities related and business activities related to  
8       the cottages on the lake, but the main reason for the  
9       people visit this area is so that they can use the --  
10      you know, benefit from the area of the lake itself,  
11      okay, which has a very nice natural state.

12                  Q.   Do all members of the association  
13      live in the area or within southern Ontario?

14                 A.   No, they do not.   The membership of  
15      the association lives as far afield as Florida, there  
16      are quite a number of people that are from the Ohio  
17      area, we also have members that come from all across  
18      Canada, people from Montreal, Ottawa, Toronto, across  
19      southern Ontario, Saskatchewan and British Columbia.

20                 Q.   Okay.   And I understand that you have  
21      personally served as the president, vice-president and  
22      director of the association?

23                 A.   That is correct.

24                 Q.   And are you testifying today on  
25      behalf of the association?



1                   A. Yes, I am testifying on behalf.

2                   Q. Okay, thank you. I would like to ask  
3                   you to turn to page 3 of your witness statement and at  
4                   the bottom of the page you see the subheading 1990-2010  
5                   Timber Management Plan for the Tweed Crown Management  
6                   Unit, and then there's a discussion starts in 1987.

7                   And I just want to ask you briefly,  
8                   previous to December, 1987 did the cottagers have any  
9                   other involvement with proposed or actual timber  
10                  management activities in the? Area.

11                  A. There were previous attempts to build  
12                  a road that dated back to the early 1970s.

13                  Q. Can you indicate where that road  
14                  might have been?

15                  A. The road at that particular point  
16                  that was in question - sorry, okay - was an area that  
17                  went across the narrows between Weslemkoon Lake and  
18                  Otter Lake in this direction, running from the  
19                  southeast to the northwest right in here.

20                  Q. Okay, thank you.

21                  MR. MARTEL: Is there access to the lake  
22                  now, I just can't recall from having read it some time  
23                  ago.

24                  THE WITNESS: To --

25                  MR. MARTEL: To the main lake.



1                   THE WITNESS: The main lake. Yes, there  
2           is a road that --

3                   MR. MARTEL: Just show us where it comes  
4           in.

5                   MR. COSMAN: Can you just move back a  
6           bit.

7                   THE WITNESS: Sorry. There is a road  
8           that comes in in this direction and there is also a  
9           roadway that comes in at the south end of the lake to  
10          the marinas down here.

11                  MADAM CHAIR: Did you say it comes out  
12          closer than seven miles to the lake?

13                  THE WITNESS: Okay, no. Okay, I said to  
14          our particular -- to my mother's cottage, okay. This  
15          is the nearest road access point, okay, from the  
16          direction that we travel at least anyway from here to  
17          here. The other road comes in from the Bancroft area  
18          and involves a much more convoluted --

19                  MR. MARTEL: How many roads enter the  
20          lake, two or three?

21                  THE WITNESS: Two.

22                  MR. MARTEL: Two. One at the south end,  
23          one at the --

24                  THE WITNESS: North end.

25                  MR. MARTEL: North end. And the

1 cottagers transport everything by boat then?

2 THE WITNESS: Yes, that's correct.

3 MR. LINDGREN: Q. And can you briefly  
4 tell us what happened to that proposed road on the  
5 narrows?

6 A. Okay. That was a very controversial  
7 proposal to put a road through that area. Of 250  
8 responses to the proposal to put a road across that  
9 area, there were 249 negative responses.

10 Q. Well was this a forest access road?

11 A. This was a forest access road and  
12 also a municipal road.

13 Q. And again, prior to December, 1987  
14 did the association members have any contact with  
15 timber management activities or ever heard or seen any  
16 particular timber management activities in the area?

17 A. Yes, there had been previous logging  
18 that had gone on in areas around the lake, most  
19 particularly in the area around Sleeper or Green Lake  
20 which is located down in this direction, okay, which  
21 was logged in the 70s, okay.

22 Q. Now, can you perhaps mark that.

23 A. Sorry, in this general area down  
24 here. And this was logged and there was considerable  
25 controversy. This was a lake that was accessible only

1 by foot up until that point and was one of the better  
2 fishing lakes in the area, and since then it has  
3 basically become fished out and it is not a nice  
4 walking area at the present time.

5 It was clearcut around large areas of the  
6 lake and it has still not regrown, obviously since that  
7 time it hasn't had time to grow.

8 Q. And is there access to that lake now?

9 A. Yes, there is access on the west side  
10 of that lake by road.

11 MR. MARTEL: The cutting to the lake, did  
12 they cut to the shoreline or just around it? Was there  
13 a buffer left?

14 THE WITNESS: There was a buffer left,  
15 but it could basically, in the way that I view it, it  
16 could be termed as a false facade similar to a western  
17 town.

18 MR. MARTEL: I want to back up for a  
19 minute. I was intrigued by your saying that there was  
20 a municipal road. What municipality would want to  
21 build a road into there?

22 THE WITNESS: You would have to go back  
23 and speak to the directors of the association back  
24 during the 1970s.

25 MR. MARTEL: Well, what municipality

1 would it serve?

2 THE WITNESS: Between Denbigh, Arbinger  
3 and Ashby to the best of my knowledge.

4 MR. MARTEL: Which are located where?

5 THE WITNESS: Denbigh and Arbinger and  
6 Ashby Townships take the north half through here and  
7 goes over to No. 41 highway.

8 MR. LINDGREN: Mr. Martel, this is an  
9 issue that we will be addressing in the latter portion  
10 of his evidence-in-chief.

11 MR. MARTEL: Okay, fine. It just struck  
12 me as funny that the municipality -- I'm trying to look  
13 for a municipality around there that would want a road  
14 built into there.

15 MR. LINDGREN: That's an interesting  
16 issue and we will return to that.

17 MS. SEABORN: Mr. Lindgren, could we mark  
18 on the map a letter or a number for the circle that Mr.  
19 Armstrong just made so that when we are reviewing the  
20 transcript we can identify that spot.

21 MR. LINDGREN: Certainly.

22 Q. Mr. Armstrong, you're free to mark it  
23 with any number or letter you like.

24 A. Why don't we mark it No. 1.

25 MS. SEABORN: Thank you.

1                   MR. LINDGREN: Q. And you have indicated  
2                   that there was a buffer left around that particular  
3                   lake. Can you estimate how wide the buffer was?

4                   A. I would estimate the buffer on the  
5                   east side of the lake is at most a hundred yards.

6                   Q. Okay, thank you. And I think the  
7                   second part of the question I asked a moment ago was  
8                   whether or not you or the other association members  
9                   have ever seen logging equipment in the area?

10                  A. Yes, there has been logging equipment  
11                  in various areas around the lake. Personally I have  
12                  viewed tracked vehicles from logging operations as  
13                  close as down on this shore on the opposite side of the  
14                  bay to where my mother's property is, okay.

15                  As a matter of fact, there are two other  
16                  directors of the association who own cottage property  
17                  on the other side of this bay and they have actually  
18                  found tracks across their private lands.

19                  Q. Can you mark the location of those  
20                  cottages with two dots with the red pen?

21                  A. Would you like me to identify the  
22                  directors?

23                  Q. No, that is not necessary.

24                  MS. SEABORN: Perhaps, Mr. Lindgren,  
25                  these could be numbered as well because we're not going



1 to know which two dots we're referring to later on.

2 THE WITNESS: Okay. Why don't we mark  
3 them No. 2 and No. 3.

4 MADAM CHAIR: What is the No. 1 dot, Mr.  
5 Armstrong?

6 MR. ARMSON: This is the area around  
7 Sleeper or Green Lake that was logged during the 70s.

8 MR. LINDGREN: Q. And, Mr. Armstrong,  
9 perhaps you can mark your cottage property as No. 4.

10 A. Okay.

11 Q. And the earlier proposed road  
12 crossing of the narrows can be marked as No. 5. Thank  
13 you.

14 Now, I would like to return to page 3 of  
15 your witness statement, paragraph 7, and you indicated  
16 that in December, 1987 members of the association first  
17 learned of the Ashby-Trout Lake Road, and before we get  
18 any further perhaps you can indicate to the Board where  
19 the proposed road was going.

20 A. The proposed road, okay, is this road  
21 which is marked on the map here as alternative No. 1.

22 MR. MARTEL: No. 6 then. Do you want to  
23 make that No. 6, Mr. Lindgren.

24 THE WITNESS: Can we mark -- it's already  
25 marked alternative No. 1 on the map.

1 MR. LINDGREN: And there's a legend that  
2 indicates that, Mr. Martel.

3 Q. Can you briefly describe how and when  
4 the association learned of this proposed road?

5 A. Okay. The association learned of  
6 this road in December of the year. I was informed  
7 about a road in the timber management activities by the  
8 then president of the association Mrs. Marilyn Nash.  
9 At that point I was the immediate past president of the  
10 association and I received a package from the Ministry  
11 of Natural Resources on December the -- dated December  
12 16th, 1987 on the proposed road.

13 Q. And I understand that you also were  
14 in telephone contact with the Ministry of Natural  
15 Resources?

16 A. That is correct.

17 MR. LINDGREN: And, Madam Chair, I would  
18 like to file as the next exhibit a memo dated December  
19 7th, 1987.

20 It's a Ministry of Natural Resources memo  
21 to Mr. Bill Hagborg from a J. W. Doef concerning the  
22 Ashby-Trout Lake Road.

23 MADAM CHAIR: That will be Exhibit 1438,  
24 and that is a one-page letter.

25 MR. LINDGREN: That's correct.

1       ---EXHIBIT NO. 1438: One-page letter dated December  
                                    12, 1987 from J.W. Doef (MNR) to  
2                                     Bill Hagborg.

3 MR. LINDGREN: Q. Mr. Armstrong, you  
4 have had an opportunity to review this document?

5 A. Yes, I have.

6 Q. And did you make this phone call?

7 A. Yes, I did.

8 Q. And is this a reasonably accurate  
9 summary of the cottagers; concerns about the proposed  
10 road?

11 A. Yes, it is.

12 Q. I would like to ask you to turn to  
13 the seventh bullet point on this exhibit where there's  
14 an indication that:

15 "they...", meaning the cottagers,  
16 "...may think that we're pulling a fast  
17 one because of the time of year  
18 (Xmas) when no one is around."

19                   And could you explain to the Board what  
20       was meant by that comment?

21 MS. BLASTORAH: Mrs. Koven, I would just  
22 like to clarify that the witness will be giving his  
23 interpretation of that comment not what was meant by  
24 the author, obviously, since this is a Ministry of  
25 Natural Resources memo.

1 I just wanted to put that on the record.

2 MADAM CHAIR: Mr. Lindgren, where did we  
3 get this memo, was this sent to Mr. Armstrong?

4 MR. LINDGREN: No. Actually this was  
5 recently provided to me. I don't think Mr. Armstrong  
6 was the recipient of this particular document. We had  
7 requested this document and it was sent to us by the  
8 Ministry of Natural Resources.

9 MADAM CHAIR: Was it part of the timber  
10 management planning documentation?

11 MR. LINDGREN: I'm not sure. That would  
12 be a question that perhaps could be answered by the  
13 Ministry of Natural Resources. I think it's in  
14 probably the supplementary documentation for the road.

15 MS. BLASTORAH: Mrs. Koven, we can  
16 confirm that. I believe it's in the supplementary  
17 documentation but we will undertake to confirm that.

18 MADAM CHAIR: Thank you.

19 MR. LINDGREN: Q. Mr. Armstrong, you  
20 have indicated that you received an information package  
21 from the Ministry about this proposed road and that it  
22 was sent to you in December.

23 Now, I understand that this has been  
24 filed as Appendix B to your witness statement, and this  
25 can be found in Exhibit 1434 which is the source book

1 for witness statement No. 2.

2 Now, there's an indication that this  
3 information package was dated December 16th, and on the  
4 public notice, the first page of the Appendix B,  
5 there's an indication that public information dates  
6 would be held on December 16th and 17th, 1987 at Tweed.

7 Do you have any concerns about the timing  
8 and adequacy of this notice provision -- provision of  
9 this notice?

10 A. Well, the timing of the notice, okay,  
11 obviously by the time I had received it it left very  
12 little time in order to attend the Tweed District  
13 office, okay.

14 The other thing that could be brought up  
15 at this particular point is the fact that the time of  
16 year that these public information days are held is at  
17 the time of year when seasonal residents are not  
18 normally using their premises. This was approximately  
19 two weeks before Christmas, and the time of year is  
20 when the residents and members of the association are  
21 spread all over North America, and it's very difficult  
22 to get these people informed and even much more  
23 difficult to get them to attend an information meeting  
24 that's held in Tweed.

25 Q. Did you attend the meeting in Tweed?



1                   MR. MARTEL: Could we back up for a  
2                   minute, because that's why earlier I asked how many  
3                   people had winterized their residence, I want to know  
4                   how many people in fact, if you've got an idea, how  
5                   many people live on the lake year round who in fact  
6                   could get correspondence and attend who are in a  
7                   position to attend this meeting?

8                   THE WITNESS: Okay. I can speak, okay.  
9                   Okay, at this particular time during the year because  
10                  you're normally at a time of freeze-up on the lake,  
11                  it's inaccessible by boat, okay. At that time there  
12                  are basically on the north road, on road accessible  
13                  properties, there are five families that live in this  
14                  area.

15                  MR. LINDGREN: Q. And they are members  
16                  of the association?

17                  A. A couple of them are, the others are  
18                  not. And included in those five families is the marina  
19                  operator. And on the south end of the lake there are  
20                  two marinas and their families plus four -- to the best  
21                  of my knowledge, there's four other permanent year  
22                  round residences.

23                  And beyond that, I know that there is one  
24                  individual that maintains a property halfway down West  
25                  Bay on the south side who also runs a trap line and he

1 is a year round resident. But those are the only year  
2 round residents that I'm aware of.

3 Q. Did you attend the information  
4 session in Tweed?

5 A. No, I did not.

6 Q. On December 16th or 17th?

7 A. No, I did not.

8 Q. Can you indicate for the Board how  
9 long the drive is from Scarborough to Tweed, round  
10 trip?

11 A. The drive from Scarborough to Tweed  
12 is approximately 150 miles.

13 Q. Is that round trip?

14 A. No, that is one way.

15 Q. One final question on the public  
16 notice, and again I'm referring to Appendix B, the  
17 first page, there's a map there. Can you advise me as  
18 to whether or not the proposed access road or the  
19 alignment of the road is set out there?

20 A. No. The actual proposed alignment of  
21 the road, there's just a proposed access point, okay,  
22 that is indicated but the road itself is not on the  
23 map.

24 Q. Would you have found it more  
25 meaningful or more helpful to have a map of the

1 proposed location of the road set out in the public  
2 notice?

3 A. Yes.

4 Q. Did the association respond to the  
5 public notices?

6 A. Yes, the association did respond.

7 Q. And can you describe what the  
8 association did?

9 A. The association responded with  
10 letters from the president, from the past president and  
11 from the legal counsel to the association indicating  
12 their opposition to the roadway and indicating their  
13 reasons why they were opposed.

14 Q. And these have been filed as  
15 Appendices C, D and E in Exhibit 1434; is that correct,  
16 Mr. Armstrong?

17 A. That's correct.

18 Q. And can you summarize for the Board  
19 the association's main concerns about the proposed  
20 road?

21 A. The main concerns for the road are  
22 that; one, it was to access an area that we believe to  
23 be an ecologically fragile area; No. 2, that it will  
24 provide a route for other people to attend this lake  
25 which could lead to increased vandalism of properties

1 on the lake and the actual lake itself is already  
2 adequately served by road at either end which are  
3 supervised, with the exception of the public launch  
4 ramp at the very north end of the lake, and it will  
5 also provide an area where -- contrary to what the  
6 Ministry had indicated at that point would be an access  
7 point for increased fire protection would actually be  
8 an uninhabited roadway where we believe forest fires  
9 would be more likely to start.

10 Q. Okay. Now, these reasons are set out  
11 in Exhibit 1438 which is the memo to Bill Hagborg dated  
12 December 7th, 1987, and I would like to return to the  
13 first point that you made and, that is, that the road  
14 would be going into an environmentally fragile, or as  
15 you say here -- or as you are reported to have said in  
16 the memo, that it would traverse an ecologically  
17 sensitive area.

18 And can you indicate for the Board why  
19 the association believes this particular area is  
20 environmentally sensitive?

21 A. The main reasons are that this area  
22 is a marshy area, it is inhabited by a number of large  
23 birds, herons, eagles, hawks, it is also an area where  
24 where there have been a major increase in fishing over  
25 the last number of years, okay, and fishing pressure on



1 the lake is already quite severe, and it was also an  
2 area where the people believed -- the members of the  
3 association believed that there were possibly a number  
4 of rare types of fish and flowers.

5 Q. And can you indicate on the map the  
6 general location of this marshy area?

7 A. This marshy area extends from  
8 approximately this area here right on the lake all the  
9 way to the end of a small bay which is adjacent to the  
10 Ashby Creek area, and the Ashby Creek actually has a  
11 pattern that actually flows through this marshy area at  
12 the end.

13 I might say at this point that this  
14 marshy area is quite deep, it's deep enough to run a  
15 boat through some of the channels right up to the  
16 shore, quite adjacent to where the road area is, it's  
17 not a marsh that is walkable.

18 Q. Could you put a circle around the  
19 area and identify that as No. 6.

20 Now, before we move on, from the initial  
21 involvement of the association with respect to this  
22 public notice, the OFAH asked an interrogatory which  
23 essentially asked how you would propose to address your  
24 concerns about public notice and public information  
25 centres.



1 MR. LINDGREN: And, Madam Chair, this is  
2 Exhibit 1436, Question No. 1.

3 Q. Do you have that, Mr. Armstrong? This  
4 is the interrogatory responses.

5 A. Yes, sorry.

6 Q. And can you briefly summarize for the  
7 Board your answer to that question?

8 A. Okay. The basic way that the --  
9 addressed is, okay, longer notice periods, scheduling  
10 of information centres and open houses when most  
11 affected people will be in the area. As I said before,  
12 these are mostly seasonal residents in the area and  
13 they are not in the area at this particular time. This  
14 involves them having to travel large distances, if in  
15 fact they can go to these information centres at all,  
16 and the holding of more than one information centre.  
17 At that particular time of the year it would probably  
18 be more beneficial actually to run one in downtown  
19 Toronto than it would be to run one in Tweed, Ontario.

20 And that there are a number of times  
21 during the summer months, particularly when I'm sure  
22 they were already aware in this particular case that  
23 there was going to be a timber management information  
24 open house, that a large number of people could have  
25 attended in one area at one particular time, okay,

1 meaning the summer annual meeting of the association,  
2 okay, which is held on the August holiday weekend on  
3 the Saturday every year.

4 Q. Okay. Thank you. And before I leave  
5 Exhibit 1438, which again is that one-page memo, can  
6 you advise me if during your phone calls to Mr. Hagborg  
7 that the association opposed the road because they  
8 wanted to preserve their privacy?

9 A. No.

10 Q. Have you ever made such a comment to  
11 the Ministry of Natural Resources?

12 A. No.

13 Q. To your knowledge, has any other  
14 association member made that comment to the Ministry of  
15 Natural Resources?

16 A. No. No. If you look in Appendix No.  
17 E, my responses to the Ministry are a number of  
18 different responses, but that is not included in my  
19 response.

20 Q. In Appendix E you are referring to  
21 your letter of January 13th, 1988?

22 A. Of January 13th 1988.

23 Q. Thank you. Now, did the association  
24 ever receive a response from the Ministry about these  
25 concerns?

1                   A. Yes, they did receive a response,  
2     okay, which has been already submitted under Appendix  
3     F.

4                   Q. That's Appendix F. Thank you.  
5     Now, the letter filed as Appendix F indicates in the  
6     third full paragraph, last line that:

7                   "The concerned parties had approximately  
8                   54 days to respond to the proposal."

9                   Mr. Armstrong, can you advise me as to  
10    whether or not you regard that as an adequate period  
11    upon which to comment on a plan?

12                  A. 54 days, in my opinion, is inadequate  
13    to begin with considering the distance, that some of  
14    these people have to informed or if they have to come  
15    to the information centres and to relate the  
16    information from people who have been to the  
17    information centres to people that could not attend,  
18    and particularly at this time of year.

19                  54 days perhaps in the summer might be an  
20    adequate amount of time, but 54 days at that time of  
21    the year is, in my opinion and the opinion of the  
22    directors of the association, to be inadequate.

23                  Q. And in the second full paragraph,  
24    just above that, last line:

25                  "The district manager indicates that it

1 is not necessary for each member to  
2 contact this office with the same  
3 concerns."

4 And can you advise me how the association  
5 interpreted that particular comment?

6 A. The association interpreted that  
7 comment to mean that rather than dealing with a large  
8 number of individual association members, the Ministry  
9 of Natural Resources would prefer to correspond with  
10 the key members of the association, meaning the  
11 executive of the association, which include the Board  
12 of Directors, which includes the present and past  
13 president of which I was one at the time.

14 Q. And in fact you did receive some  
15 correspondence from the Ministry on this issue?

16 A. That's correct.

17 MR. LINDGREN: And, Madam Chair, this is  
18 found in the package of interrogatories MNR Question  
19 No. 8, this is Exhibit 1436.

20 Q. And, Mr. Armstrong, can I ask you to  
21 turn to MNR Question No. 8 in that exhibit. And very  
22 simply, Mr. Armstrong, the Ministry asked you if you  
23 had received a copy of the attached letter, the  
24 attached is dated February 2nd, 1988. Did you in fact  
25 receive this?

1 A. Yes, I did.

2 Q. Mr. Armstrong, I am showing to you a  
3 copy of a Ministry of Natural Resources letter dated  
4 February 5th, 1988 and in the upper right-hand corner  
5 there's an indication that it's a standard MNR response  
6 for Ashby-Trout Lake Road Proposal. Have you had an  
7 opportunity to review that?

8 A. Yes, I have.

9 MR. LINDGREN: Okay. I would like to  
10 file that as the next exhibit, Madam Chair.

11 MADAM CHAIR: This will be Exhibit 1439,  
12 and what is it again, Mr. Lindgren?

13 MR. LINDGREN: It's a Ministry of Natural  
14 Resources -- it's on Ministry of Natural Resources  
15 letterhead, it's dated February 5th, 1988, and it  
16 appears to be a form letter from the District Manager  
17 of the Tweed District office.

18 ---EXHIBIT NO. 1439: Three-page letter re:  
19 Ashby-Trout Lake Road Proposal  
20 from MNR District Manager, Tweed,  
Ontario, dated February 5, 1988.

21 MR. LINDGREN: Q. And, Mr. Armstrong,  
22 have you had an opportunity to review this February 5th  
23 letter to compare it to the letter that you in fact  
24 received?

25 A. Yes.



1 Q. Are they the same, or are they  
2 different?

3 A. They are the same.

4 Q. Are they identical?

5 A. Yes.

6 Q. Would you describe this as a form  
7 letter?

8 A. Yes, I would.

9 Q. Are you satisfied with receiving a  
10 form letter having made input to the Ministry of  
11 Natural Resources on this road?

12 A. No. When I responded to the Ministry  
13 of Natural Resources regarding the road I expected when  
14 they were asking for input as to the timber management  
15 process that each individual question or problem that  
16 is put towards them would be addressed individually,  
17 and I don't think that a form letter adequately does  
18 this if they want to have information and input from  
19 the people.

20 MR. MARTEL: Can I ask, were there any  
21 matters raised in your letter to them which in fact  
22 were not responded to in the form letter that you might  
23 have received? In other words, were some issues that  
24 were just -- or is everything answered?

25 THE WITNESS: The form letter answers the

1 questions but it does not answer them specifically  
2 enough in my opinion, okay, it answers them in a very,  
3 very vague...

4 MR. LINDGREN: Q. Mr. Armstrong, I'm now  
5 looking at page 5 of your witness statement.

6 MADAM CHAIR: Excuse me, just one  
7 question. Mr. Armstrong, were these form letters sent  
8 only to members of the Lake Weslemkoon Association, or  
9 do you know if it had a wider distribution?

10 THE WITNESS: I do not know that.

11 MADAM CHAIR: Okay.

12 Shall we break for lunch now, Mr.  
13 Lindgren?

14 MR. LINDGREN: This may be an appropriate  
15 spot.

16 MADAM CHAIR: All right, fine. We will  
17 be back at 1:30 then. Thank you.

18 ---Luncheon recess taken at 12:00 p.m.

19 ---On resuming at 1:30 p.m.

20 MADAM CHAIR: Please be seated.

21 Excuse me, Mr. Lindgren, just one matter  
22 while Ms. Swenarchuk is here, and that had to do with  
23 Exhibit 672.

24 As it stands in the transcripts, we have  
25 entered the entire book as an exhibit, however, Mr.

1       Castrilli had made reference to other excerpts from the  
2       book and we can't find them anywhere. We think the  
3       only reference we have are his excerpts that he  
4       exhibited at that point and the whole book was made an  
5       exhibit.

6                So it is an exhibit and we will get a  
7       copy, and we will keep the separate exhibit number of  
8       those pages that you will give us having to do with Dr.  
9       Hutchinson's evidence.

10               MS. SWENARCHUK: All right.

11               MS. BLASTORAH: Mrs. Koven, just before  
12       we begin, I gave an undertaking this morning to check  
13       with regard to Exhibit 1438, whether it was included in  
14       the supplementary documentation to the 1990-2010 plan,  
15       and I'm informed that that documentation relates to the  
16       original amendment proposal which was in 1987 and,  
17       therefore, it's in supplementary documentation to the  
18       current plan which was subsequent to that.

19               MADAM CHAIR: Was it part of the public  
20       documentation for the amendment?

21               MS. BLASTORAH: Well, that amendment was  
22       done under the old process. So I'm not sure what  
23       exactly would be available. It is available in the  
24       Ministry's files and, as Mr. Lindgren indicated, we  
25       made it available to him.

1 MADAM CHAIR: Proceed. Thank you.

2 MR. LINDGREN: Madam Chair, I have one  
3 outstanding undertaking as well. We had indicated that  
4 we would count the number of photographs in the  
5 supplementary source book, and I'm advised by Mr. Huff  
6 that there are 74 photographs and one videotape in that  
7 document.

8 MADAM CHAIR: Thank you.

9 MR. LINDGREN: And that's Exhibit 1435.

10 Q. Now, Mr. Armstrong, when we broke I  
11 believe we were at page 5, paragraph 12, wherein you  
12 indicate the actions undertaken by the association in  
13 the spring of 1988 in relation to road and can you  
14 briefly advise the Board what the association did in  
15 that regard?

16 A. Okay. Well, they wrote them and at  
17 that point they decided that at that point it would be  
18 advisable to have the representative of the Ministry of  
19 Natural Resources come to the annual general meeting to  
20 discuss the road.

21 Q. And a written invitation was sent out  
22 to the MNR?

23 A. That's correct.

24 Q. And that correspondence is found  
25 within Appendix G in the source book; is that correct,

1 Mr. Armstrong?

2 A. That's correct.

3 Q. And on page 6 of the witness  
4 statement, paragraph 14, there's an indication that the  
5 annual general meeting occurred on July 30th, 1988 and  
6 that Mr. Hagborg attended. And can you briefly  
7 summarize for the Board what occurred at that meeting?

8 A. Okay. The meeting was attended by  
9 approximately 100 people. There was also business  
10 relating to the Lake Weslemkoon Conservation  
11 Association's annual general meeting that also was  
12 conducted during the meeting. It was conducted at  
13 approximately eleven o'clock a.m. was the start of the  
14 meeting and concluded at 1:30.

15 Mr. Hagborg spoke in the second half of  
16 the meeting to a group of approximately 100 members of  
17 the association where it was -- at a marina. This  
18 meeting is always held in an outdoor locale in open  
19 weather.

20 It might be noted at this point that  
21 towards the end of the meeting the weather started to  
22 deteriorate rapidly and as most of the cottages where  
23 the members live or reside during the summertime are  
24 accessible only by water, they were understandably  
25 concerned about getting back before a major storm went



1 through.

2 At this point Mr. Hagborg was talking, he  
3 was describing the various alternatives for the road.  
4 I think the thing that sticks in my mind most  
5 noticeably was the fact that during the meeting,  
6 towards the end of it, somebody asked how far the road  
7 was going to be back from the edge of Otter Lake and  
8 the indication was that it was to be 400 metres.

9 Q. And who said it would be 400 metres?

10 A. Mr. Hagborg. And at that point you  
11 could visibly see people in the audience start to leave  
12 because they couldn't understand why their executive at  
13 that point were worried about road that would be 400  
14 metres back from the shoreline of the lake.

15 And following the meeting, just for its  
16 worth, there was a rather major storm. We were also  
17 supposed to go on a ground truthing of the area of this  
18 road with Mr. Hagborg after the meeting, and at that  
19 time, immediately following the meeting, we had to  
20 delay it for approximately two hours because of the  
21 nature of the storm.

22 Q. And can I ask you to go to Exhibit  
23 1437, the map, and can you indicate for the Board where  
24 this tour took place and can you also generally  
25 describe what was said and what was seen on the tour?

1                   A. Okay. Maybe I can just first of all  
2 explain where the meeting itself took place. The  
3 meeting took place at the south end of Weslemkoon Lake  
4 where there is road access at the marina, this is the  
5 Weslemkoon marina, and the meeting itself took place,  
6 the actual walk through the area concerned was over  
7 here in area No. 6 which is accessible only by boat,  
8 okay, from -- and we viewed what was to be the  
9 right-of-way for the new roadway which has been tagged  
10 R at that point, and we also viewed the area in and  
11 around what is known as the minnow trap area, there's a  
12 local population which is the top of Ashby Creek.

13                   Q. And was the issue of the proposed  
14 reserve discussed during this tour?

15                   A. The shoreline reserve. Yes, it was,  
16 because at that point there was major controversy as to  
17 what was in fact the lake and what was in fact marsh or  
18 wetlands.

19                   Q. And can you explain the nature of  
20 that discussion?

21                   A. The Ministry guidelines for wetlands  
22 versus lake were such that it wasn't clear to lay  
23 people, myself included, what in fact was lake and what  
24 was marsh, and they indicated that the lake actually  
25 stopped much further out than what people generally

1 assumed to be lake.

2 Anything that they included in lake was  
3 area where there was weeds and stuff that came -- weeds  
4 and other aquatic material that came to the surface of  
5 the lake, they considered that to be marsh; whereas  
6 because of the nature of this area you can actually  
7 boat for a considerable distance through channels  
8 between this aquatic material right up to almost the  
9 bottom of the Ashby Creek where it flows into Otter  
10 Lake.

11 MADAM CHAIR: So are you saying, Mr.  
12 Armstrong, you thought the reserve should have been set  
13 back from the end of the marsh?

14 THE WITNESS: Well, the reason that  
15 people did not seem as concerned at the meeting was  
16 that they assumed that 400 metres was from the end of  
17 where you could actually run a boat to, they consider  
18 that to be lake; whereas the Ministry guidelines, which  
19 were not as clear to us, were that the lake was much  
20 further away from where everybody thought it was.

21 MR. LINDGREN: Q. Can you go again to  
22 the map and perhaps indicate for the Board the  
23 difference in terms of measuring the reserves?

24 A. The area where the proposal  
25 alternative 1 roadway was to go through is set back

1 approximately 110 to 120 metres from the actual area  
2 where you can run a boat, float a boat into, and if you  
3 look out into the marshy area out here, the marshy area  
4 actually extends about 400 metres out from where the  
5 actual --

6 MR. MARTEL: So if you take the road  
7 then, where the road was going to be and the shoreline,  
8 which I always thought used to be where a road -- or a  
9 lake might end, it would be on the shoreline, the 400  
10 metres became 120 metres or thereabouts?

11 THE WITNESS: That's correct.

12 MR. MARTEL: That's logical.

13 THE WITNESS: And you were actually  
14 boating 200 yards through what they considered to be  
15 marsh, which to lay individuals -- their definition and  
16 the lay individual's definition is --

17 MR. MARTEL: You don't have a definition  
18 of -- you don't have a copy of their definition; do  
19 you?

20 THE WITNESS: Yes, we do, but it was  
21 supplied to us after the fact. I believe it's in the  
22 appendices.

23 MR. LINDGREN: You're correct, Mr.  
24 Armstrong. If you turn, Mr. Martel, to Appendix N  
25 there's a letter dated November 1st, 1988 from the



1 district manager and attached to that is an extract  
2 from what I understand to be the Wetlands Evaluation  
3 System and this was offered as explanation to where a  
4 lake ends and a marsh begins, and this is what was  
5 provided to the association.

6 MADAM CHAIR: Well, let's get this  
7 straight, Mr. Armstrong. What you're saying is that  
8 while they couldn't do timber management activities in  
9 the marsh land and they couldn't build a road through  
10 the marsh land, but the entire reserve would be based,  
11 even if the marsh land wasn't there, the adjoining  
12 areas were also small?

13 THE WITNESS: They were considering that  
14 the shoreline reserve extended out through the area of  
15 marsh, which in fact there aren't any trees growing on  
16 it, it is marsh, but you can still run a boat through  
17 it, even when the lake is drawn down in the fall, you  
18 can still run a boat into this area quite easily, and  
19 I'm talking a boat with an engine on it, so it's deep  
20 enough to do that.

21 MR. LINDGREN: Q. Does this clarify  
22 things, Mr. Armstrong; the Ministry wanted to -- your  
23 understanding was that the Ministry wanted to measure  
24 the reserve starting from the lake side edge of the  
25 marsh?



1 A. That's correct.

2 Q. And measure a linear distance of 400  
3 metres?

4 A. That's correct.

5 Q. Whereas the association's  
6 understanding was that the 400 metres would not start  
7 somewhere within the vegetation, it would start on the  
8 shoreline or solid ground and then be counted up that  
9 way?

10 A. That's correct. It becomes very  
11 difficult for an individual to be able to walk 110  
12 metres from where they have climbed out of a boat and  
13 be told that they are 400 metres from the lake.

14 Q. Was the issue of skyline or viewshed  
15 protection also discussed during this tour?

16 A. Yes, it was.

17 Q. And can you explain that to the  
18 Board, please?

19 A. We were particularly worried about  
20 the actual route of the road, where it was going to go  
21 along the northeastern edge of Otter Lake in a  
22 northwesterly direction, particularly about a large  
23 stand of pine which is easily visible all the way  
24 across the lake.

25 If you come through the narrows here and

1 view across the lake, there is a large stand of pine  
2 here which includes both red and white pine, and we  
3 were worried that that would probably be something that  
4 somebody in a timber operation -- logging would like  
5 that type of timber.

6 Q. And what species are you talking  
7 about?

8 A. The red pine and the white pine that  
9 are up on this particular ridgeway through here, and  
10 it's easily viewed from all the way across the lake,  
11 and at that point we were assured that no site line  
12 guidelines would be used, that it would not be visible.

13 But I expressed at that point to Mr.  
14 Hagborg that I was still concerned that in fact some of  
15 this particular stand would be harvested and it would  
16 be visible.

17 MADAM CHAIR: So you were asking for that  
18 stand not to be cut to form a skyline reserve?

19 THE WITNESS: That's correct.

20 MR. LINDGREN: Q. Mr. Armstrong, I'm  
21 showing to you an undated file note with respect to the  
22 Ashby-Trout Lake Road Proposal and there's an  
23 indication that it was prepared by Mr. Hagborg, it's  
24 two pages. Can you look at that. Have you had an  
25 opportunity to review that document?

1 A. Yes, I have.

2 MR. LINDGREN: I'd like to file that as  
3 the next exhibit, Madam Chair.

4 MADAM CHAIR: This will be Exhibit 1440.

5 ---EXHIBIT NO. 1440: Two pages entitled: File Note,  
6 Ashby-Trout Lake Road Proposal.

7 MADAM CHAIR: Two pages, entitled: File  
8 Note, Ashby-Trout Lake Road Proposal, and it's dated --  
9 it's not dated.

10 MR. HUFF: It refers to July 30th.

11 MADAM CHAIR: Pardon me?

12 MR. HUFF: It refers to --

13 MADAM CHAIR: July 30th, 1988. Could we  
14 have one more copy, Mr. Lindgren?

15 MR. LINDGREN: (handed)

16 MADAM CHAIR: Thank you.

17 MR. LINDGREN: Q. Turn first, Mr.  
18 Armstrong, to subparagraph (a) General Meeting. Is  
19 this, in your opinion, a fairly accurate summary of  
20 what was said--

21 A. Yes.

22 Q. --at the meeting?

23 A. It is a fairly accurate summary.

24 Q. Are there any significant omissions  
25 with respect to what was said at the meeting?

1                   A. Hold on for just one moment, I just  
2 wanted to look up the copy that I have here. Okay.  
3 Some of the things that are not particularly evident  
4 from this, first of all, at the general meeting, as I  
5 stated, there was no statement as to the type of  
6 weather that was at the annual meeting, okay.

7                   If you look at this summary, under  
8 General Meeting, there's nothing about that, but I  
9 think it's very crucial to the point of what people  
10 thought and how the people were relating to the  
11 statements about the 400-metre shoreline reserve, and  
12 at that point he lost interest from an awful lot of  
13 people that were there because they were concerned for  
14 their own safety in returning to their cottages.

15                  MADAM CHAIR: Mr. Armstrong, could you  
16 point us to where Mr. Hagborg makes those comments?

17                  THE WITNESS: No, he doesn't state that,  
18 okay. I'm looking at where, General Meeting, he  
19 says -- it's his own file note, and he doesn't say  
20 anything about the weather. I think that should have  
21 been taken into account.

22                  MS. BLASTORAH: Mrs. Koven, I'm sorry, I  
23 don't mean to interrupt, but I just wanted to clarify,  
24 because there has been no discussion about exactly what  
25 this memo is. I think we should clarify where it came



1 from and what the witness' knowledge is or not and what  
2 it is.

3 MR. LINDGREN: Madam Chair, it's fairly  
4 obvious to me, and perhaps the other parties as well,  
5 that this purports to be a note prepared by Mr. Hagborg  
6 with respect to (a) a meeting with the association;  
7 and, (b) the post-meeting inspection that occurred, and  
8 this was provided to us as part of the documentation we  
9 requested from the Ministry of Natural Resources with  
10 respect to this particular road proposal.

11 MS. BLASTORAH: The reason I rose, Mrs.  
12 Koven, is because I just wanted to clarify that this  
13 has not been characterized on the face of the document  
14 as minutes of that meeting, and I understand that the  
15 witness had not seen this document prior to our  
16 providing it to Mr. Lindgren.

17 I can advise that it is in the  
18 supplementary documentation to the plan, and I just  
19 wanted to -- I was a little concerned because there  
20 seemed to be -- the purport of putting this document in  
21 seemed to imply that there was something wrong in there  
22 not being a comprehensive note of everything that  
23 happened at the meeting, and since it doesn't purport  
24 to be minutes of that meeting, I just thought we should  
25 clarify where it came from and what it is on its face,



1       that's all. Thank you.

2                   MADAM CHAIR: Thank you. And, Mr.  
3       Armstrong, just clarify one more time for me: Why  
4       would Mr. Hagborg have to refer to what happened  
5       because of the storm?

6                   THE WITNESS: He lost a considerable  
7       amount of his audience at that particular point, as  
8       soon as he mentioned the 400-metre shoreline reserve,  
9       with the deteriorating weather, people lost their  
10      interest and began to leave the meeting.

11                  MR. LINDGREN: Q. Mr. Armstrong, do you  
12      see any reference to the 400-metre reserve in Exhibit  
13      1440?

14                  A. No.

15                  Q. Is that a significant issue?

16                  A. Yes. And when we inspected the Otter  
17      Lake and the Ashby Creek crossing for the roadway areas  
18      alternative 1, we did have a considerablye heated  
19      argument that was witnessed by a number of people as to  
20      what was lake and what was marsh.

21                  Q. Okay, thank you. Can I ask you to  
22      turn to the third bullet under subparagraph (a) General  
23      Meeting.. And there's an indication that:

24                  "Mr. Hagborg reviewed the current status;  
25                 i.e., no funding to build this year just

1 surveying has been carried out."

2 Can you advise the Board more fully what  
3 was said with respect to that matter?

4 A. Yes. As a matter of fact he said  
5 that no funding were available to build the road that  
6 year and just surveying it. He doubted that in fact  
7 funding would become available within the next five  
8 years.

9 Q. Okay, thank you. I would like to  
10 refer you to paragraph 16 of your witness statement  
11 which is found on page 7, and you indicate that you  
12 took a tour of the area after this inspection with Mr.  
13 Hagborg. And can you briefly advise the Board where  
14 you went and what you saw?

15 A. Okay. The area that was visited was  
16 the area up where the pink lines are through here where  
17 it had been logged, clearcut in previous years, and in  
18 this area through here we found considerable stacks of  
19 timber that were still laying on the ground, old  
20 logging operations that had not been cleared from the  
21 property.

22 MADAM CHAIR: From what years, Mr.  
23 Armstrong?

24 THE WITNESS: These were -- okay, this  
25 was on the August holiday weekend in 1988 and these

1       were logs from the previous year's cutting. I can't  
2       say exactly when the logs were cut, but it was within  
3       the previous year.

4                       MR. LINDGREN: Q. And can you  
5       indicate --

6                       A. But it was not very recent timber  
7       harvesting operations, timber harvesting had not gone  
8       on in this area for some time. These logs were  
9       standing and laying on the ground and basically had  
10      become bug infested.

11                      MR. MARTEL: You weren't told about  
12      the -- in any of your dealings, or did you ask when the  
13      operation was carried on?

14                      THE WITNESS: I can't honestly remember  
15      whether I asked that question. I don't believe that I  
16      did. I actually was up and I walked this entire area  
17      the next day after I had been up there with Mr.  
18      Hagborg.

19                      MR. MARTEL: But on the day of the tour?

20                      THE WITNESS: No, no. We didn't actually  
21      go and look at these logs on the day of the tour, at  
22      least I did not.

23                      MR. MARTEL: Oh.

24                      MR. LINDGREN: Q. You're sure the logs  
25      occurred after the road inspection?

1                   A. Yes. This was on the Saturday, and I  
2     retoured the area just to refresh in my mind what had  
3     actually gone on on the Sunday and considered -- I  
4     walked this, to the northwest on the road alternative 1  
5     and I walked the area where it had been cut to the  
6     southeast.

7                   Q. And can you briefly advise the Board  
8     as to the species and size of the logs that were there?

9                   A. Okay. There were large -- there were  
10    stacks of from 20 to 25 logs. There was pine, spruce  
11    and birch. There was also quite a bit of poplar which  
12    is not in my witness statement, there was quite a bit  
13    of poplar that was also, you know, with these logs.

14                   And for what it's worth, most of this has  
15    been cleared up, but there is still -- to this date, as  
16    of a week ago, there is still one stack of logs sitting  
17    that I would consider now as probably unmarketable.

18                   Q. Thank you. And did the association  
19    advise the Ministry of Natural Resources about these  
20    logs being --

21                   A. Yes, we did. The then president of  
22    the association wrote them a letter regarding this.

23                   Q. And that has been filed as Appendix  
24    J; is that correct, Mr. Armstrong?

25                   A. That's right.

1 Q. I would like to refer you briefly to  
2 Appendix L which is a letter dated September 14th, 1988  
3 from the Ministry of Natural Resources to yourself.

4 A. Yes.

5 Q. And in the second paragraph there's  
6 an indication that:

7 "The Ministry's understanding is that you  
8 and other members of the Lake Weslemkoon  
9 Conservation Association are interested  
10 in preserving privacy you have  
11 experienced in an area of Crown land and  
12 water in and around Otter Lake."

13 And is that in fact the case; is that the  
14 position of the association?

15 A. No, it is not the position of the  
16 association and from my previous writings to the  
17 Ministry of Natural Resources I think it will become  
18 apparent that I have certainly never mentioned that and  
19 I don't believe anybody else has either, certainly not  
20 executive members of the association.

21 Q. And in fact the Ministry asked an  
22 interrogatory on that very issue, this is MNR Question  
23 No. 12 in Exhibit 1436, and can you turn to that. This  
24 is the interrogatories package.

25 A. Sorry. Yeah, okay.



1 Q. Question No. 12 from the Ministry of  
2 Natural Resources.

3 A. Yes.

4 Q. And the question is:

5 "Does Mr. Armstrong agree that comments  
6 were made by members of the association,  
7 including Mr. Armstrong himself, in  
8 particular at the site inspection of  
9 July 31st, 1988, that those members  
10 wished to preserve their privacy."

11 A. No.

12 Q. You do not agree?

13 A. I do not agree.

14 Q. And you've given evidence before this  
15 Board that that is in fact the case; is that correct?

16 A. Yes.

17 Q. Is that a yes?

18 A. Okay. I do not agree with the  
19 statement, okay.

20 Q. Thank you. Can I refer you to  
21 Appendix N, you referred to this a few moments ago.  
22 Again, this is a letter dated November 1st, 1988 from  
23 the district manager to yourself and in the second  
24 paragraph there's an indication that:

25 "The fact that you and other members of

1                   the conservation association hold similar  
2                   views does not change the fact that as  
3                   manager of public land I must ensure that  
4                   our programs meet the expectations of the  
5                   public beyond the immediate area."

6                   And, Mr. Armstrong, can I ask you, first  
7                   of all, is the association opposed to all logging  
8                   operations in the area of the lake?

9                   A. No, we are not. As a matter of fact  
10                  we realize that the people that live in the area have  
11                  to make a living and, to a large extent, their living  
12                  comes from timber harvesting operations of one sort or  
13                  another.

14                  What we're opposed to is things which  
15                  would affect environmentally sensitive areas and we  
16                  also think that the Ministry does not take into account  
17                  other values that can be placed upon the timber and the  
18                  public lands surrounding this lake aside from timber  
19                  harvesting operations.

20                  Q. And in the association's view, have  
21                  the Ministry's timber management proposals been  
22                  satisfactory to the public as represented by the  
23                  cottagers?

24                  A. No.

25                  Q. Now, I would like you to refer to

1 another interrogatory that was posed by the Ministry on  
2 this issue and that is Question No. 13 from the  
3 Ministry of Natural Resources, and the question was:

4 "Whether or not you agree that the public  
5 affected by proposed timber management  
6 activities includes the following..."

7 And your answer indicates that you do  
8 agree, but you suggest that:

9 "The short-term interests of one group;  
10 i.e., the forest industry, tends to be  
11 given prominence by the MNR over  
12 the long-term interests of other public  
13 groups."

14 Can you briefly indicate to the Board why  
15 that is your position?

16 A. Basically the reason that I say this  
17 is that the timber management activities that go on are  
18 located in an area that is within a very easy  
19 three-hour drive from over half the population of  
20 Canada, and there are other values that are more --  
21 that we think, in our terms, are probably more  
22 valuable, particularly when it comes to logging close  
23 to areas such as environmentally sensitive areas that  
24 we were discussing about today.

25 Basically when ends up happening, is you

1 end up with a logging operation that tends to make a  
2 mess of the forest by clearcutting. Today's even  
3 selective harvest of timber often entails use of  
4 machinery that tends to disturb the forest and it ends  
5 up being for a short-term gain by a logging operation  
6 there is long-term pain for people that could use this  
7 as recreational activity.

8 Forests in this area take a long time to  
9 regrow and two or three generations down the road a  
10 clearcut areas are still going to be considerably  
11 affected by some of the logging operations.

12 Q. Can I ask you to turn to page 9 of  
13 your witness statement, paragraph 22, and there's an  
14 indication that:

15 "In January, 1989 the association learned  
16 that a new timber management plan was  
17 being prepared and that the new plan  
18 includes the proposed Ashby-Trout Lake  
19 Road."

20 Now, can you advise me what the Ministry  
21 response to the association's concerns -- can you tell  
22 the Board what the Ministry's response about the  
23 association's concerns about, for example, the white  
24 pine that you talked about a minute ago?

25 A. Okay. The Ministry's response that



1 all forest management guidelines would be taken into  
2 effect in looking at this particular area as far as  
3 harvesting of it and that, yes, they believed that in  
4 fact the pine area would be preserved, but good forest  
5 management guidelines would be used in their completion  
6 of this timber management plan.

7 Q. And are you referring to Appendix P;  
8 is that the Ministry's response that you're referring  
9 to?

10 A. Yes, this is correct.

11 Q. And in the fourth paragraph of  
12 Appendix P there's a reference to the waste logs that  
13 you had referred to a few moments ago. Did you say --  
14 did you mean to say to the Board that subsequent to  
15 this letter the logs were still there?

16 A. That is correct. The logs were still  
17 there, as a matter of fact one of the reasons that I  
18 understand was given for the non-removal of this  
19 particular timber was the fact that it was not feasible  
20 to remove it because of the nature of the ground that  
21 it was over, meaning that it was too wet, too soft, to  
22 run equipment over; whereas in fact the summer of 1988  
23 it was one of the driest summers on record in south  
24 central Ontario.

25 Q. Can I ask you to turn the page to



1 Appendix Q, and can you explain to the Board what this  
2 is?

3 A. Okay. This is my response to an  
4 invitation to participate in the Tweed Crown Forest  
5 Management Unit's 1990-2010 timber management plan, and  
6 it was my initial response to them regarding the timber  
7 management plan and also my request that I be included  
8 on their mailing list for any future documentation that  
9 would be coming from this plan and the information  
10 centres that would be held regarding this plan.

11 Q. And can you briefly explain to the  
12 Board what you meant by each of the three bulles points  
13 we find under paragraph 2?

14 A. Okay. Basically when we had  
15 discussed it with the Ministry we asked that building  
16 of temporary roads for logging purpose which developed  
17 into permanent roads was one of our concerns.

18 The reason for this was that the road,  
19 rather than appearing to be a temporary logging road  
20 which was what it seemed to be, they were indicating  
21 was going to be constructed, was in fact going to turn  
22 into a municipal roadway with a 66-foot road allowance  
23 and would be connected to the north end of the lake's  
24 other road for access by the municipality.

25 In fact, there had been -- the original

1 engineering report for the road had been requested by  
2 the Ashby Township and an engineering report had been  
3 provided by Grier, Galloway Associates regarding  
4 construction of this road, and in the fact that they  
5 felt this was the only feasible route to link two  
6 dead-end roads to provide access for the municipality  
7 to another dead-end road at the north end.

8 Okay. As far as unnecessary cutting in  
9 tourist areas and environmently fragile areas, I think  
10 that speaks for itself.

11 Q. And these are the environmentally  
12 fragile areas that we talked about this morning?

13 A. That's correct. This is the area  
14 towards the Ashby Creek, High Dam Lake area along the  
15 east of -- it's this area down through here, in  
16 particular the area that I've circled with No. 6, but  
17 it goes all the way across here.

18 What isn't shown on this map is the fact  
19 that it is not a municipal road, it is a small cottage  
20 road that in fact actually goes all the way down to  
21 approximately this point here. And what we can see  
22 happening was simply the fact that the road, where it  
23 got to this point, would be easily connected with this  
24 area here and make municipal linkage.

25 Q. Can you draw that on with a dashed

1 line, please?

2 A. Okay. The cottage road actually  
3 follows the shore and it terminates at approximately  
4 this point.

5 Q. And turning your attention to area  
6 No. 6, are there any special habitats that occur in the  
7 area that make it fragile or sensitive?

8 A. Yes. This area has been known to  
9 have in its habitat a large heron population in  
10 particular, okay, and we have witnessed heron rookeries  
11 in this area by members of the executive of the  
12 association. There are also in this area numerous  
13 sightings of eagles, hawks, and what has been  
14 considered to be rare flowers. I don't purport to be  
15 an expert on rare flowers though.

16 Q. Mr. Armstrong, the MNR legend to  
17 Exhibit 1437 indicates that heronries are marked on  
18 this map with a green circle. can you advise me if  
19 there's a circle in area No. 6 where you say there are  
20 heronries?

21 A. No, there is not.

22 Q. Thank you. And then finally, can you  
23 turn to the third bullet point on Appendix Q?

24 A. We were also concerned of lack of  
25 projections by the Ministry. I had asked on a number

1 of occasions what the effect of regrowth if a lot of  
2 this forest had been taken as far as acid rain  
3 precipitation in the area. These forests have grown  
4 over the past hundred years, and this area that goes  
5 across here has been logged at one point, it has also  
6 been burned over in fire.

7 To the best of my knowledge there have  
8 been two fires have gone through this area, one  
9 approximately 1880 and another one that went through in  
10 approximately 1904 and these forests, in other words,  
11 have grown up over the past century in conditions that  
12 are probably considerably different than what we could  
13 probably see in the future due to acid rain  
14 precipitation, which has been known to retard growth of  
15 forests, and it also doesn't take into effect the  
16 heating up of the atmosphere.

17 Q. Did you raise those concerns with the  
18 Ministry?

19 A. I have mentioned it before and in  
20 this I asked, you know, I basically made it one of my  
21 concerns in this.

22 Q. Have you ever received a reply from  
23 the Ministry on those issues?

24 A. To the No. 3 point, no, I have not.

25 Q. Thank you. Did you review the draft



1 plan in person?

2 A. Yes, I did. I attended their offices  
3 in Tweed, Ontario in June of 1989 on a Friday.

4 Q. You drove from Toronto?

5 A. I drove from Toronto and I reviewed  
6 it on Friday afternoon and when I viewed the plan I  
7 reviewed it with Rob Spence, he was in the office on  
8 the day that I attended, and I was taken through the  
9 forest management and I was shown the map which appears  
10 in Appendix No. R.

11 Q. Can you advise the Board as to  
12 whether or not there are any areas eligible for harvest  
13 indicated on this map near your cottage?

14 A. There are none.

15 Q. Pardon me?

16 A. There are none. I would like to  
17 point out at this particular point that the cottage is  
18 not mine, it is my mother's.

19 Q. And in your witness statement you  
20 indicate that your mother also asked for a map of areas  
21 that would be eligible for harvest?

22 A. That is correct.

23 Q. And that has been filed as Appendix  
24 T. And can you advise me as to whether or not there  
25 are areas eligible for harvest indicated on this map



1 near your cottage?

2 A. Yes, there are. They are located on  
3 the west side of Mackie Bay and if you want scale on  
4 the map in here, it would be located in the area behind  
5 No. 3 and No. 4 that I have indicated on the map.

6 Q. Were you or your mother advised about  
7 or advised or consulted or notified about the  
8 differences between Appendix T and Appendix R?

9 A. No, we were not. When I was at the  
10 Tweed office in June of 1989, it should be noted that I  
11 had moved approximately June 14th, and when I was at  
12 the Tweed offices, I left my new address at the offices  
13 and since then I have received no new literature  
14 regarding the forest management.

15 Q. Thank you. Now the Ministry of  
16 Natural Resources asked you an interrogatory about this  
17 issue. I refer you to Question No. 17 of the  
18 interrogatory package, and the question is:

19 "Does Mr. Armstrong agree that the area  
20 allocated in the vicinity of the  
21 cottage is an area previously approved in  
22 the 1985 to '90 timber management plan  
23 for the Tweed Crown Management Unit which  
24 had not yet been harvested and that this  
25 did not constitute a change of harvesting

1 plans."

2 And can you explain your answer to the  
3 Board. You indicate that in fact it did represent a  
4 change in your view.

5 A. I had not been involved with the  
6 1985-90 timber management plan, but it is my  
7 understanding that this area is larger and closer to  
8 the shoreline of Lake Weslemkoon than what had  
9 previously been shown and was not shown in the previous  
10 maps, so it did not lead to any concern on my part of  
11 any timber management activities that would be going  
12 on -- timber harvesting activities that would be going  
13 on in this area.

14 Q. And I would also like to refer you to  
15 OFIA Interrogatory No. 6 on this issue, this is the  
16 third page of the document, and the question  
17 essentially was:

18 "How far in distance from the cottage was  
19 the harvesting operation proposed to take  
20 place?"

21 The answer is:

22 "See attached map."

23 And there's an indication of the area of  
24 operations and your cottage. And can you give me an  
25 estimate as to how far the cottage was?

1                   A. We looked at the maps on the larger  
2 scale this morning and we estimated that it was  
3 approximately 300 metres.

4                   Q. 300 metres?

5                   A. Yes.

6                   Q. Were the proposed road and logging  
7 operations discussed at the 1989 annual general meeting  
8 of the association?

9                   A. I was not in attendance at that  
10 meeting so I cannot answer that question.

11                  Q. Just one moment. The minutes of that  
12 meeting have been attached as Appendix S and can you  
13 advise me as to whether or not the MNR was invited to  
14 attend this meeting?

15                  A. Yes, it was.

16                  Q. And did an MNR representative attend?

17                  A. No, they did not.

18                  MR. MARTEL: Can I back up. I have been  
19 mystified here for some time. One place it says  
20 that -- I'm looking at paragraph 28 and it says:

21                         "We then received a copy of a map dated  
22                                 August, 1989 which indicated that  
23                                 harvesting would occur in the vicinity of  
24                                 our cottage. Neither my mother or myself  
25                                 were notified or consulted by the MNR

1                   about this change in harvesting plans."

2                   And I wrote myself a little note when I  
3       read this. I said: How could this occur that no  
4       notice was in fact given changing from no cut to a cut  
5       so quickly.

6                   Now, we don't get a chance to question  
7       MNR, but I'm going to ask the witness, did he ask that  
8       question, did he ask MNR about the sudden about-face  
9       that seems to have occurred - I don't know if it did or  
10      what - and so what I need to know: Did you ask them  
11      why all of a sudden this change occurred, or...

12                  THE WITNESS: In fact, no, I did not, my  
13      mother did.

14                  MR. MARTEL: And what did they tell your  
15      mother?

16                  THE WITNESS: They made - and they did  
17      not do this in writing - indications that it was  
18      previously on the previous forest management plan and  
19      it was just a continuance of that plan and it wasn't  
20      required to be in it.

21                  MR. MARTEL: You didn't see the original?

22                  THE WITNESS: The 1985 --

23                  MR. MARTEL: You hadn't gone through --  
24      that's what you were alluding to a little while ago.

25                  THE WITNESS: I was not involved with



1       that forest management plan, and the reason that we  
2       were made aware of this was through a phone call from  
3       the then president of the association and my mother  
4       being a property owner. I was quite busy at the time,  
5       I asked her if she would please contact the Ministry of  
6       Natural Resources to obtain a map showing this area  
7       that I had been made aware of.

8                   MR. MARTEL: Which leads me then to  
9       another concern I had. In developing the 1985-90  
10      proposal, I understand that MNR always does these in  
11      five-year cycles over the 20 years of a plan, I just --  
12      I don't know if the 85-90 plan, how that was put  
13      together and if the public participated in any way,  
14      shape or form or was it under the old pre-FMA  
15      agreements or company management the way it was done,  
16      but still, what was the planning process and was the  
17      public involved?

18                   I'm just trying to find out why people  
19      wouldn't have been aware of the cutting that was  
20      scheduled or harvest schedule which seems to indicate  
21      that there was some scheduled in 85-90 and, therefore,  
22      it wasn't dramatic change, if in fact the public were  
23      involved in any way, shape or form in either  
24      participating or being advised about where the cutting  
25      was going to occur in 85-90.



1 MR. LINDGREN: Well, Mr. Martel, as I  
2 understand it, a new plan was done under the current  
3 planning process.

4 MR. MARTEL: Right.

5 MR. LINDGREN: In Appendix R, which is a  
6 map dated May, 1989, there are no areas indicated for  
7 harvest in and around the vicinity of the cottage and  
8 in Appendix S, which is a map dated August, 1989, a  
9 couple of months later, there was an area.

10 MR. MARTEL: It should have showed up on  
11 both, is what you're suggesting then?

12 THE WITNESS: Might I say something?

13 MR. LINDGREN: Q. Would it have been  
14 helpful if had been indicated earlier on the earlier  
15 map, Mr. Armstrong?

16 A. I think for a lay person to look at  
17 this area, I have walked across this area many times,  
18 it's not exactly a long way from my mother's property,  
19 and having not seen any timber harvesting operations  
20 going on in this area, you would expect that if they  
21 are going to harvest and use this in a five-year -- in  
22 a management plan that is made five years -- after a  
23 five-year period when none has gone on, that it would  
24 be included to say: This is a new timber harvesting  
25 operation, not old timber harvesting operations that

1 are just a continuance because, to the best of my  
2 knowledge, there wasn't any timber harvested in this  
3 particular area during the previous five years.

4 MR. MARTEL: One would have assumed it  
5 would have been on the 1989 map, 85-89 -- yes, 85-90  
6 map. I just don't know, I'm trying to get that  
7 clarified. Maybe we'll get an answer when we're done  
8 from Ms. Blastorah.

9 MR. LINDGREN: Q. Mr. Armstrong, just to  
10 finish off on this point, is it misleading in your view  
11 to not indicate on Appendix R that there were in fact  
12 areas eligible for harvest near your mother's cottage?

13 A. I believe so.

14 Q. Would it have been helpful to you and  
15 the association if that area had been marked on the map  
16 in Appendix R?

17 A. Yes, it would. Can I just add one  
18 thing to that.

19 Q. Certainly.

20 A. The people that own cottages on the  
21 west side of that bay, including two people who are now  
22 on the Board Of directors of the Lake Weslemkoon  
23 Conservation Association, when I contacted them by  
24 phone, they were also completely unaware that this was  
25 on the management plan and they would have said

1 something, in my opinion, if they would have known  
2 about it because it backs immediately on to their  
3 properties.

4 MADAM CHAIR: Okay. Just one final  
5 question about that. The dates that we have on these  
6 two maps, R is dated May --

7 THE WITNESS: And August.

8 MADAM CHAIR: 8th.

9 THE WITNESS: '89.

10 MADAM CHAIR: May, 1989 is Appendix R and  
11 Appendix--

12 MR. LINDGREN: T.

13 MADAM CHAIR: --T is dated August, 1989?

14 THE WITNESS: That's correct.

15 MADAM CHAIR: So a change was made over a  
16 two-month period?

17 THE WITNESS: That is correct.

18 MR. LINDGREN: Q. And, Mr. Armstrong,  
19 before we move on from this point, perhaps you can go  
20 to Exhibit 1437 and just circle the general area that  
21 suddenly became eligible for harvest?

22 A. The area that became available for  
23 timber harvest was the area --

24 MS. BLASTORAH: I'm sorry, Mr. Armstrong,  
25 could you just step back.

1 THE WITNESS: Sorry. It was the area  
2 that went behind the west side of Mackie Bay in this  
3 area.

4 MR. LINDGREN: And can you mark that with  
5 No. 7, please. Now, I think I had asked you whether or  
6 not an MNR representative had been invited to the 1989  
7 annual general meeting, and you had indicated an  
8 invitation went out.

9 A. This was a verbal invitation by the  
10 way.

11 Q. Pardon me?

12 A. This was a verbal invitation.

13 Q. A verbal invitation?

14 A. And normally from the Lake Weslemkoon  
15 Conservation Association, in the past it has become a  
16 responsibility of the past president of the association  
17 to help get an agenda and a speaker for the annual  
18 general meeting.

19 Q. And did a representative from the  
20 Ministry of Natural Resources attend the meeting?

21 A. No, they did not.

22 Q. Now, on page 12 of your witness  
23 statement, paragraph 29, you indicated that you  
24 inspected the Otter Lake area again and you discovered  
25 a corridor. And can you briefly describe to the Board



1       what you saw, what you found on this tour?

2                   A.   The corridor -- of chief concern to  
3       me was after we had gone on the walk with the Ministry  
4       of Natural Resources and I had been assured that there  
5       would be no access point to Otter Lake made of any road  
6       that went through this area, I discovered that a  
7       snowmobile club, Mazinaw Powerline Snowmobile Club had  
8       in fact cut a trail down from the area where the --  
9       from the area where the road was to cross Ashby Creek  
10      down to what they considered to be marsh, we consider  
11      to be lake, at the Ashby Lake area -- at the Otter Lake  
12      area that was approximately - and this is done on a  
13      roller tape which I used from my own work - which at  
14      its maximum point is 37 feet wide and measured from the  
15      road where they flagged the roadway down to the edge of  
16      the lake/marsh area measured at five different stations  
17      along averages approximately 31 feet wide.

18                   Q.   And this is a corridor that leads  
19      from the road to Otter Lake?

20                   A.   Directly, and it could be easily used  
21      by any four-wheeled drive vehicle.

22                   Q.   And what's your concern about access?

23                   A.   Well, the concern about access has  
24      been that it's an unsupervised access point that has  
25      been put forward in a number of the articles that I



1 have already had in the appendices today.

2 MADAM CHAIR: Excuse me, Mr. Armstrong.

3 How far was the road from the lake? How far did the  
4 snowmobile trail extend?

5 THE WITNESS: Okay. When you say the  
6 snowmobile trail, are we talking about from the area  
7 where the road alternative 1 was supposed to cross, or  
8 are we talking about how far does it continue?

9 MADAM CHAIR: Well, you just said that  
10 you discovered the snowmobile trail and that it was  
11 about 31 feet in width and that it extended from a road  
12 to that lake?

13 THE WITNESS: Yeah, okay. I'm saying  
14 that it extended from --

15 MADAM CHAIR: From the existing road?

16 THE WITNESS: No, where they had flagged  
17 the bush with orange marker tape indicating this is  
18 where the road right-of-way would go through.

19 MR. MARTEL: It was the same --

20 THE WITNESS: Okay, which crosses this  
21 area and goes down at right angles to this - well, give  
22 or take a few degrees - down to the edge of Otter Lake.

23 MADAM CHAIR: And what's that distance?

24 THE WITNESS: Right there it would be  
25 about 110 metres.

1                   MADAM CHAIR: And how do the snowmobilers  
2 get to that point?

3                   THE WITNESS: There is snowmobile trails  
4 that go through the bush and I have not travelled and I  
5 am not a snowmobiler so I can't adequately say where  
6 they end up.

7                   MR. LINDGREN: Q. Were your concerns  
8 about access expressed to the Ministry of Natural  
9 Resources?

10                  A. Yes, they were.

11                  Q. And what did the Ministry of Natural  
12 Resources indicate would be done with respect to the  
13 access or an access point on Otter Lake?

14                  A. They had indicated that there would  
15 be no access point and it was not part of their plan at  
16 that point to have an access point on Otter Lake.

17                  Q. And is it your evidence that this  
18 corridor would in fact provide access?

19                  A. It would provide a very easy access  
20 for a minimum of four-wheel drive or all-terrain  
21 vehicle and with very minor improvement could be  
22 accessed by any type of vehicle.

23                  Q. Now, you've also indicated in your  
24 evidence that you found a land use permit in the area?

25                  A. That is correct.

1                   Q. Can you briefly describe to the Board  
2 the circumstances under which that was found?

3                   A. The land use permit was actually  
4 found by myself on the long weekend in May of 1989 when  
5 I went on a tour of the area, and the land use permit  
6 was nailed up to a tree where it was easily visible  
7 from Otter Lake going up towards where the alternate 1  
8 right-of-way was to go through.

9                   Q. Did you retrieve the land use permit?

10                  A. Yes, I did.

11                  Q. And where is that land use permit?

12                  A. The land use permit, there is -- the  
13 actual printed land use permit is in your possession  
14 and the actual sign -- yes, the land use permit was in  
15 this pocket here, okay. We had to -- so it could be  
16 photocopied for the hearing, had to be removed from the  
17 packaging here, so we do have a copy of that.

18                  MR. LINDGREN: Yes, thank you. I would  
19 like to file a copy of the land use permit as the next  
20 exhibit. I would like to mark that as part of the same  
21 exhibit, this will be part A.

22                  MADAM CHAIR: Exhibit 1441 is a one-page  
23 document, it is a land use permit issued by the  
24 Ministry of Natural Resources, it's dated -- the permit  
25 date is effective December 1st, 1988 to March 31st,

1 1989 and it's issued to the Mazinaw Powerline  
2 Snowmobile Club. And you want that to be Exhibit  
3 1441A, Mr. Lindgren.

4 MR. LINDGREN: Yes, please.

5 ---EXHIBIT NO. 1441A: Copy of land use permit effective  
6 December 1, 1988 to March 31,  
7 1988 issued by MNR to Mazinaw  
Powerline Snowmobile Club.

8 MADAM CHAIR: And you want B to be the --

9 MR. LINDGREN: The sign.

10 MADAM CHAIR: Describe it.

11 MR. LINDGREN: I'm not sure that I can.

12 Mr. Armstrong, perhaps you could describe the sign, you  
13 found it.

14 THE WITNESS: Okay. The sign is  
15 permanent aluminum construction tacked to a wooden  
16 frame and painted, and it indicates that it is the  
17 entrance to a private snowmobile trail system.

18 MR. LINDGREN: I believe it could be  
19 described as a snowmobile trail sign posted by the  
20 Mazinaw Powerline Snowmobile Club that is not dated, it  
21 belongs to the land use permit that has been marked as  
22 part A.

23 ---EXHIBIT NO. 1441B: Aluminum snowmobile trail sign  
24 posted by Mazinaw Powerline  
Snowmobile Club, undated pursuant  
25 to Exhibit 1441A.



1                   MADAM CHAIR: So the members of the  
2 snowmobile club have to buy trail permits?

3                   MS. BLASTORAH: I'm sorry, Mrs. Koven, I  
4 didn't hear.

5                   MADAM CHAIR: Excuse me. I'm not  
6 familiar with this sort of a display. The second line  
7 says: "trail permit may be purchased from local  
8 merchants or trail wardens".

9                   MR. COSMAN: You will see it explained in  
10 the permit itself, Mrs. Koven.

11                   MADAM CHAIR: All right. Thank you, Mr.  
12 Cosman.

13                   MR. LINDGREN: Q. And, Mr. Armstrong,  
14 can you perhaps indicate whether you have any concerns  
15 about what is depicted on the sign or the land use  
16 permit?

17                   A. I have a number of concerns. First  
18 of all, that we were not given any indication that in  
19 fact this right-of-way where the sign was posted was to  
20 be cut, which was an access point. No. 2 --

21                   MR. MARTEL: Can I stop you for one  
22 moment. I want to ask you a question before this  
23 escapes me. I'm reading here and it says:

24                   "From time to time it may be necessary  
25 for timber operators to use MNR forest



1                   access roads included in this permit."

2                   Was MNR setting the stage to construct  
3           the road and send these people in ahead of you. I  
4           mean, that's what it appears. I might be wrong.

5                   THE WITNESS: If I might expand on  
6           that --

7                   MR. MARTEL: Or does this just apply to  
8           roads already built, let me ask the final line. This  
9           is why I asked the previous question a while ago about  
10          the location from the waterline and the marking, it  
11          just seemed everything seems to be falling in place  
12          nicely, if I might use that term, and everything is  
13          turning out quite nicely, and maybe that's just a  
14          perception from reading and only having this side of  
15          the material before me, but it -- and maybe I have a  
16          devious mind, I don't know.

17                  MADAM CHAIR: Mr. Armstrong, do you have  
18          any knowledge of the sort of land use permit, I mean  
19          you can answer Mr. Martel's question if you have an  
20          opinion about that, but do you have any experience or  
21          knowledge of how permits issued and what their  
22          conditions are?

23                  THE WITNESS: Okay. I can only go by  
24          what is actually on the permit that I found here. From  
25          a lay person's point of view, I noticed that the permit

1 termination date is March 31, 1989 and I found this  
2 well be beyond the end of the termination date for the  
3 land use permit and it indicates that, first of all,  
4 that the permit should be removed when it expires,  
5 which it was not.

6 How is somebody that is a summer seasonal  
7 resident to know where or what or how this trail came  
8 into existence in the middle of the summer if in fact  
9 all the land use permits are removed. It would be  
10 encumbent upon them to go and search out and find out  
11 through trial and error where it came from.

12 Secondly, it indicates that a trail five  
13 metres wide and approximately 151 kilometres in length  
14 on Crown land as shown in yellow was to be constructed.  
15 Five metres is approximately 16 feet.

16 What I have indicated in my measurement  
17 of this right-of-way from the road crossing, road  
18 right-of-way down to Otter Lake is considerably wider  
19 than this and in fact it's wide enough to have two  
20 regular road vehicles pass side by side on something  
21 that wide; whereas, if it was only five metres wide  
22 perhaps one vehicle could get down it.

23 MADAM CHAIR: And the snowmobile club cut  
24 their own trail?

25 THE WITNESS: That is what I'm to assume

1 by the fact on the permit. Another thing that I might  
2 mention in looking at this is the fact that in our  
3 talking with the Ministry of Natural Resources it has  
4 been indicated that this roadway that was to be  
5 constructed was to be patrolled by officers of the --  
6 uniformed officers of the Ontario Provincial Police and  
7 uniformed officers from the conservation units, and was  
8 to be adequately policed and whatever.

9 What I find is that this is a permit that  
10 they have let under similar conditions to somebody and  
11 they haven't gone in and even policed the removal of  
12 signs in accordance with the permit.

13 MR. MARTEL: I'm no lawyer, but how can  
14 they -- how can the provincial police be going on a  
15 private road?

16 MR. LINDGREN: I don't believe it's a  
17 private road, Mr. Martel.

18 MR. MARTEL: No, but it says; doesn't it?

19 MR. LINDGREN: That's what that says.

20 MR. MARTEL: Private trail system.

21 MR. LINDGREN: That's what that says.

22 MR. MARTEL: And if this road were cut on  
23 Crown land by a private club, well first, then it  
24 contradicts that this is a private -- how can it be a  
25 private system then if people can use it.

1                   Correct me if I'm wrong, there are some  
2   lawyers in the place, but once the public puts some  
3   funding into a road, or used to be, people can use the  
4   road; is that not right?

5                   MS. SWENARCHUK: It's a little more  
6   complicated than that if you check under the area, Mr.  
7   Martel, but -- I will just stop at that.

8                   MS. BLASTORAH: Mr. Martel, perhaps I  
9   should just ask Mr. Lindgren to have the witness  
10   clarify whether he has any knowledge of any public  
11   funding going into this, that might help address your  
12   question.

13                  MR. LINDGREN: Well, let me ask two  
14   questions.

15                  Q. Are you aware of any public funding  
16   that went into this and are you aware as to whether or  
17   not there's any public approval of this?

18                  A. No.

19                  MS. BLASTORAH: Apart from --

20                  MR. MARTEL: That leads me to my second  
21   part of question then, this is then a private road, if  
22   there's no public funding in it how can it be other  
23   than private?

24                  MS. BLASTORAH: Are we talking about the  
25   snowmobile trail, Mr. Martel?



1                   MR. MARTEL: But if we're sending in  
2 police -- I mean, Mr. Armstrong said that he was  
3 advised or learned that the OPP were in fact going to  
4 police this.

5                   My original question is: Why would the  
6 OPP go into something that might be considered a  
7 private road or a private trail?

8                   MR. LINDGREN: I think the answer perhaps  
9 Mr. Martel, and I would have to check on this perhaps  
10 with Ms. Blastorah or other representatives of the MNR,  
11 but notwithstanding what is indicated on Exhibit 1441,  
12 which is that it is a private trail system, it's still  
13 Crown land.

14                  MS. BLASTORAH: Mr. Martel, perhaps it  
15 would clarify it if I just - I think Mr. Lindgren can  
16 correct me if I'm wrong - repeat what the witness said  
17 which I think was that he said he had been told by the  
18 Ministry that if this road proposal were built that  
19 road would be policed by uniformed officers and he  
20 doesn't understand why the same wouldn't apply to this.

21                  MR. MARTEL: Okay, pardon me.

22                  MS. BLASTORAH: That may clarify it.

23                  MR. MARTEL: I think that clarifies it.

24                  MR. LINDGREN: Q. Just to go back one  
25 step. The association - and this is just to confirm -



1 association was advised there would be no access from  
2 the road to Otter Lake?

3 A. That is correct.

4 Q. And your position is that when this  
5 land use permit was issued access was in fact provided  
6 from the road to the lake?

7 A. The access was provided to the lake  
8 and it was also provided in a way that we were not made  
9 aware of and that off season, when people would not  
10 normally be going through the area to view cutting and  
11 use of this trail.

12 And, in addition, we were looking at it  
13 from the point of view that if the signs had been  
14 removed, who would know where the permit came from.

15 If I might just add onto this, this  
16 particular sign was removed in May of 1989 from a tree  
17 on the Thanksgiving weekend, 1990. Approximately a  
18 week and a half ago we walked the same area because I  
19 knew I would be coming to this hearing. And we walked  
20 in the areas of the snowmobile trail - we being my wife  
21 and my two sons, my mother and my brother - and when we  
22 walked the area we were looking for signs of new  
23 cutting, what had happened as far as forest  
24 regeneration in the area since I last walked through  
25 the entire area approximately a year ago, and my son

1 Blair who is six found another identical sign and  
2 identical land use permit in another spot which we  
3 have, if you require it.

4 MADAM CHAIR: Mr. Armstrong --

5 THE WITNESS: And he was -- believe me, I  
6 don't like walking approximately a kilometre through  
7 bush carrying a sign that that is that heavy and  
8 awkward.

9 MADAM CHAIR: Mr. Armstrong, what's your  
10 problem with the sign still being posted if the  
11 termination date of the permit -- if the permit has  
12 already been terminated?

13 THE WITNESS: My problem is that it says,  
14 and you can read through that, it's supposed to be  
15 removed when the permit expires.

16 MADAM CHAIR: But what's the concern  
17 about whether it's removed or not if the permit is no  
18 longer --

19 THE WITNESS: Okay. My concern is the  
20 fact that in the long run we have been indicated that  
21 any roadway that will be put through this area will be  
22 monitored by the police and conservation officers, and  
23 yet a year and a half later on an approved permit for a  
24 snowmobile trail the permits haven't been done. It  
25 doesn't strike me that proper policing has even gone on

1 in the last year and a half.

2 MADAM CHAIR: So you're saying the fact  
3 that the sign is still signing somewhere suggests that  
4 no one has monitored, no one has been down that road?

5 THE WITNESS: Right.

6 MADAM CHAIR: All right. I didn't  
7 understand that. Could you tell me also, setting aside  
8 your prominent concern about this being access on Otter  
9 Lake, the existence, setting aside all the permit  
10 business, that you're opposing that access to Otter  
11 Lake, did you see any other information on land use in  
12 your area when you were at the timber management when  
13 you reviewed the draft plan?

14 THE WITNESS: Yes.

15 MADAM CHAIR: --was there any information  
16 about other land uses?

17 THE WITNESS: They indicate that they are  
18 managers of a public resource and that the resource is  
19 as well as for timber management, it is for  
20 recreational activities as variable as hunting,  
21 fishing, snowmobiling, general use by the public.

22 MADAM CHAIR: So it would have benefitted  
23 you, it would have informed you at that point if you .  
24 had seen something specifically about permits to  
25 snowmobile clubs or access in that area?

1                   THE WITNESS: That's correct. I did not  
2 see anything when I visited the information areas  
3 regarding these. I'm not a snowmobiler, but I was not  
4 aware of the permits system for snowmobile trails.

5                   MADAM CHAIR: I see. And so by seeing  
6 simply that there would be recreational use and  
7 snowmobile use, you wouldn't be able to arrive at the  
8 conclusion that you would have this kind of a trail?

9                   THE WITNESS: Not particularly when I  
10 looked at it from the point of view that they in fact  
11 are going to cut right-of-ways for their snowmobile  
12 trails.

13                  MADAM CHAIR: Okay, thank you.

14                  MR. LINDGREN: Madam Chair, in light of  
15 the fact that we will be rising early today, were you  
16 intending to take a break at about this time?

17                  MADAM CHAIR: We have 45 minutes left, we  
18 won't take a break.

19                  MR. LINDGREN: Okay, we'll be finished.

20                  Q. Can I ask you to turn to Appendix W,  
21 please, and this was a letter dated October 31st, 1989  
22 from the MNR to Mr. McDermott who is a director of  
23 the association, and on page 2, Mr. Armstrong, there's  
24 an indication in the third paragraph that:

25                  "It is unfortunate that Mrs. Nash and Mr.



1 Armstrong, based on our records, are the  
2 only members of the Lake Weslemkoon  
3 Conservation Association who availed  
4 themselves of the numerous opportunities  
5 that have been provided to your  
6 association for public input towards  
7 preparation of the new plan."

8 What is your response to that statement,  
9 sir?

10 A. My response to that statement is that  
11 previously we were made aware in writing that the  
12 Ministry of Natural Resources would prefer talking to  
13 the executive representatives of the association rather  
14 than having to deal with numerous inquiries from the  
15 membership at large and that they had requested that we  
16 do this, and that we would be considered to be  
17 spokespeople for these other persons, rather than two  
18 individuals from the Lake Weslemkoon area, we would be  
19 considered to be representative of the membership  
20 which, as I have already said, is well over 200  
21 persons, 200 families.

22 Q. Is it accurate to imply that because  
23 only you and Mrs. Nash participated, is it fair to  
24 conclude that none of the other membership or none of  
25 the other members were interested or concerned about



1 the proposals?

2 A. No.

3 Q. And in fact those statements are set  
4 out in Appendix X which is the association's reply to  
5 that letter; is that correct?

6 A. That is correct.

7 Q. Now, can you briefly advise the Board  
8 as to when the association learned that funding would  
9 be available for this road and that the road would in  
10 fact be constructed?

11 A. To the best of my knowledge we were  
12 made aware of construction of this road in 1990, that  
13 the road would be constructed and that the road itself  
14 would be constructed up to and including the Ashby  
15 Creek area including a bridge over the Ashby Creek area  
16 in the very near future.

17 Q. Are you referring to Appendix Y?

18 A. Yes.

19 Q. And that is MNR notice advising you  
20 that the road will be constructed?

21 A. That's correct.

22 Q. And that is dated July 3rd, 1990; is  
23 that correct?

24 A. That's correct.

25 Q. Now, that essentially is where your

1 witness statement leaves off except for Appendix Z and  
2 perhaps you can briefly advise what Appendix Z was  
3 intended to do?

4 A. Appendix Z was basically designed to  
5 indicate that we were still not happy with any of the  
6 dealings regarding the road with the Ministry of  
7 Natural Resources and were not happy and did not agree  
8 that this road should be built at the current time  
9 considering a number of outstanding issues that were  
10 still outstanding from the past, almost three years of  
11 talking with Ministry of Natural Resources.

12 Q. And is this letter a bump-up request?

13 A. Yes, it is.

14 Q. And why did the association believe  
15 that bump-up to an individual environmental assessment  
16 was necessary in this case?

17 A. Because they did not feel that the  
18 concerns that they had regarding this road had  
19 adequately been addressed by the Ministry of Natural  
20 Resources in the previous number of times that we had  
21 been dealing with them regarding this matter.

22 Q. Now, I understand that a number of  
23 events have occurred since the filing of your witness  
24 statement, and I would like to have you briefly update  
25 the Board on what's occurred since this witness

1 statement. There are some correspondence to be filed  
2 and I would like to ask you some brief questions.

3 MR. LINDGREN: The first correspondence  
4 that I would like to file is MNR's standard letter to  
5 the Environmental Assessment Branch dated July 3rd,  
6 1990 with respect to the Ashby-Trout Lake Road.

7 MADAM CHAIR: This letter will be Exhibit  
8 1442. Can you give the date of the letter, Mr.  
9 Lindgren.

10 MR. LINDGREN: Yes, it's July 3rd, 1990.

11 MADAM CHAIR: It's a two-page letter.

12 MR. LINDGREN: Two-page letter from the  
13 district manager of Tweed District to the Director of  
14 the Environmental Assessment Branch.

15 ---EXHIBIT NO. 1442: Two-page letter dated July 3,  
16 1990 from MNR District Manager of  
17 Tweed District to Director of  
Environmental Assessment Branch.

18 MR. LINDGREN: Q. And, Mr. Armstrong,  
19 can I refer you to the fourth paragraph in Exhibit  
20 1442, and there the district manager is advising the  
21 Environmental Assessment Branch that:

22 "The project was not favourably received  
23 by the Lake Weslemkoon Conservation  
24 Association, a local cottage group  
25 because they felt the road was too close

1                   to their lake and would provide  
2                   unsupervised access leading to increased  
3                   Vandalism."

4                   And stopping right there, Mr. Armstrong,  
5           in your opinion is that a fair and accurate summary of  
6           all of the groups concerns about the proposed road?

7                   A. It barely fairly brushes on the many  
8           concerns that we have had over the past number of  
9           years. It does not nearly close to a summary. A  
10          summary would take a considerably larger piece of  
11          paper, particularly when this is going from one unit of  
12          government to another unit of government, to give a  
13          summary of what had transpired.

14                  Q. And what are the other issues that  
15          have not been referred to or summarized here?

16                  A. The other issues are what we have  
17          already filed in my letters and the letters of our  
18          legal counsel, Mr. Douglas Betts, and the two  
19          presidents of the association and the director of the  
20          association, Mr. Derek McDermott which is included in  
21          all of my appendices to my witness statement.

22                  Q. I'm now showing to you a copy of a  
23          letter dated August 3rd, 1990 to Ms. Darlene Dahl of  
24          the Ministry of the Environment from Mr. Doug Betts.  
25          And who is Mr. Betts?



1                   A. Mr. Betts is the legal counsel for  
2 the Lake Weslemkoon Conservation Association.

3                   Q. Thank you.

4                   MADAM CHAIR: This letter will be Exhibit  
5 1443. How many pages, Mr. Lindgren?

6                   MR. LINDGREN: Five-page document, Madam  
7 Chair.

8       ---EXHIBIT NO. 1443: Five-page letter dated August 3,  
9                                   1990 to Ms. Darlene Dahl,  
10                                  Environmental Assessment Branch,  
                                  from Douglas Betts.

11                  MR. LINDGREN: Q. Can I refer you to the  
12 last line of the first paragraph, Mr. Armstrong,  
13 there's an indication that:

14                   "The association legal counsel was not  
15 provided with copies of the notice with  
16 respect to the final approval of the plan  
17 and, hence, was not in a position to file  
18 the notice requesting bump-up within  
19 the 30-day period."

20                  Can you explain to the Board briefly what  
21 happened? Can you confirm that this notice was not in  
22 fact provided?

23                  A. Okay. This notice was not in fact  
24 provided, but it has come to my attention that in fact  
25 a notice was sent to the president of the association



1 but Mr. Betts is on written notice that he requires  
2 copies of all notices to be sent to him as legal  
3 counsel for the association, and has done so in all  
4 previous matters dealing with this issue.

5 MR. LINDGREN: And in fact the letter  
6 that is attached to Exhibit 1443 is found as Appendix D  
7 in the source book, Madam Chair.

8 The next two pieces of correspondence,  
9 Madam Chair, I would like to file together; the first  
10 is a letter dated September 4th, 1990 to Mr.  
11 Chamberlin, District Manager of Tweed District from the  
12 president of the association, and that is a three-page  
13 letter. And I would like that marked as 1444A.

14 And the second letter is a letter to Mr.  
15 Hagborg dated September 14, 1990 from Mr. Betts, 1444B.

16 ---EXHIBIT NO. 1444A: Letter dated September 4, 1990 to  
17 Mr. Chamberlin, District Manager,  
18 Tweed District, from President of  
Lake Weslemkoon Conservation  
Association.

19 ---EXHIBIT NO. 1444B: Letter dated September 14, 1990  
20 to Mr. Hagborg from Mr. Betts.

21 MR. LINDGREN: Q. And, Mr. Armstrong,  
22 can I refer you to the second paragraph of the last  
23 line, there's an indication that there is incorrect  
24 information --

25 MS. BLASTORAH: Which letter are you

1       referring to?

2                   MR. LINDGREN: The September 4th letter,  
3       Exhibit 1444A.

4                   MADAM CHAIR: We need another copy of  
5       this single, 1444B.

6                   MR. MARTEL: Betts to Hagborg.

7                   MADAM CHAIR: Okay. Start again, Mr.  
8       Lindgren, which exhibit are you on?

9                   MR. LINDGREN: Thank you, Madam Chair.

10                  Q. With respect to Exhibit 1444A, the  
11       September 4th letter, there's a reference in the second  
12       paragraph to incorrect information in the ministry's  
13       environmental analysis checklist, we will return to  
14       that in a moment.

15                  Can I ask you to turn to page 2, there's  
16       a request from the association president that:

17                  "No clearing or cutting occur or be  
18                 carried out in the area of the porposed  
19                 road until the matter...", that is the  
20       bump-up request,

21                  "...has been resolved at the level of the  
22                 Minister of the Environment." And in  
23       Exhibit 1444B a similar request is made on behalf of  
24       the association by its counsel.

25                  Mr. Armstrong, can I ask you whether or

1 not you believe that when a bump-up request is made  
2 should there or should there not be timber management  
3 activities in the area in question until the bump-up  
4 request is resolved by the Minister?

5 A. I don't believe that timber  
6 harvesting activities should be conducted in the area  
7 for the simple reason that if in fact timber harvesting  
8 activities go on where there is a problem with the  
9 timber management process, it could well become that  
10 the problem that is trying to be avoided in  
11 environmentally sensitive areas or whatever could be  
12 logged over or whatever other management process could  
13 happen to these areas before it becomes looked after by  
14 the Environmental Assessment people, and at that point,  
15 if the damage is already done, the point that people  
16 are trying to put across becomes quite moot.

17 Q. Now, in your evidence you've referred  
18 to timber harvesting. What if the bump-up request was  
19 made in relation to the construction of an access road,  
20 should clearing or cutting or construction occur before  
21 the matter is resolved by the Minister of the  
22 Environment?

23 A. No, I do not believe so, and that is  
24 also the opinion of the Board of Directors of the  
25 association.

1 MR. LINDGREN: Thank you. I'm very close  
2 to the end here, Madam Chair. I'm trying to put in  
3 these exhibits as quickly as I can.

4 The next one is an excerpt from the FEPP  
5 documentation for the Ashby-Trout Lake Road and it's 11  
6 pages and it is just an excerpt, and I would like that  
7 marked as the next exhibit.

8 MADAM CHAIR: All right. This will be  
9 Exhibit 1445. And describe it again, please, Mr.  
10 Lindgren.

11 MR. LINDGREN: It's an 11-page excerpt  
12 from the Field Environmental Planning Procedure  
13 documentation with respect to the Ashby-Trout Lake  
14 Road.

15 ---EXHIBIT NO. 1445: 11-page excerpt from FEPP  
16 documentation for Ashby-Trout  
Lake Road.

17 MR. LINDGREN: Q. And, Mr. Armstrong,  
18 can you confirm that at the fifth page in there are  
19 paragraphs describing the two alternatives or actually  
20 the three alternatives that have been identified with  
21 respect to this road, and can you very quickly advise  
22 the Board of what the three alternatives are.

23 A. Okay. The three alternatives are .  
24 basically the road that was proposed in alternative 1  
25 which is the original proposal to cross Ashby Creek and



1 follow this route towards High Dam Lake; alternative 2  
2 was to go north of this entire area --

3 MS. BLASTORAH: I'm sorry, Mr. Armstrong,  
4 I can't see.

5 THE WITNESS: Sorry. To go north of the  
6 entire area and come out where alternative 1 would have  
7 gone just at the High Dam Lake area just to the  
8 southwest of the High Dam Lake area and merge here; and  
9 the third alternative was not to provide a permanent  
10 type road.

11 MR. LINDGREN: Q. And have the first two  
12 alternatives been accurately reflected on Exhibit 1437?

13 A. Yes, they have.

14 Q. And I would like you to turn to the  
15 seventh page of this excerpt, and this is the  
16 environmental analysis checklist that we talked about a  
17 moment ago. Now, with respect to alternative No. 1 --  
18 now, is alternative No. 1 the preferred alternative?

19 A. That was the preferred alternative by  
20 the Ministry of Natural Resources.

21 Q. Does this environmental analysis  
22 checklist with respect to alternative No. 1 adequately  
23 reflect all of the cottagers' concerns that had been  
24 raised about the proposed road?

25 A. No, it does not.



1 Q. Can you explain why not?

2 A. In particular, if you look down to  
3 No. 1.6.3 MNR sensitive areas (vegetation, fish and  
4 wildlife, geology and landforms, historical and  
5 cultural complexes), it indicates that there were no  
6 sensitive areas identified which, in my previous  
7 testimony, just indicated that in fact there are  
8 environmentally sensitive areas that are in this area.

9 Q. Were your concerns about habitat  
10 adequately reflected?

11 A. These were -- habitat areas various  
12 birds particularly in the area.

13 Q. And you're referring to the next  
14 page?

15 A. Yes, sorry. Okay, if you look down  
16 under 2.5.3 habitat:

17 "no raptor nests found, minimal  
18 habitat loss anticipated."

19 It takes into no account the number of  
20 great blue heron that are in this area. No raptor  
21 nests found, I tend to think that there are in fact  
22 birds of prey in this area, a raptor being a bird of  
23 prey, and I think that there would be eagles, hawks, et  
24 cetera, found in this area.

25 Q. Mr. Armstrong --

1                   A. A bit more comprehensive view of the  
2     wildlife.

3                   MADAM CHAIR: Excuse me, Mr. Armstrong.  
4     Is this documentation part of the draft timber  
5     management plan?

6                   THE WITNESS: To the best of my knowledge  
7     it was not.

8                   MADAM CHAIR: It was prepared in 1989?

9                   MR. ARMSON: It may have been, but I  
10    can't honestly answer that.

11                  MS. BLASTORAH: I can confirm that that  
12    is in the supplementary documentation in the plan, Mrs.  
13    Koven.

14                  MR. LINDGREN: Q. Mr. Armstrong, are you  
15    satisfied with the level of analysis that we find in  
16    this EA checklist for alternative No. 1?

17                  A. No.

18                  Q. What, in your view, should have been  
19    required in order to conduct a satisfactory  
20    environmental analysis?

21                  A. Much more in-depth view of the area  
22    and perhaps an environmental assessment of the area.

23                  MR. LINDGREN: The next to last set of  
24    correspondence, Madam Chair, consists of three letters;  
25    the first is a memo to Bill Hagborg from Nigel Wood of

1 the Environmental Assessment Branch dated August 15th,  
2 1990, and that is two pages. Perhaps that could be  
3 marked as Exhibit 1446A.

4 ---EXHIBIT NO. 1446A: Two-page memo to Bill Hagborg  
5 from Nigel Wood, Environmental  
6 Assessment Branch dated August  
15, 1990.

7 MR. LINDGREN: The second letter in the  
8 package is a MNR letter dated August 17th, 1990, to Mr.  
9 Nigel Wood from Mr. Hagborg and it's a three-page  
10 letter.

11 ---EXHIBIT NO. 1446B: Three-page MNR letter to Nigel  
12 Wood from Bill Hagborg dated  
August 17, 1990.

13 MR. LINDGREN: And the third letter to go  
14 with this package, Madam Chair, is a letter dated  
15 September 17th, 1990 to Ms. Hania Jakimowicz of the  
16 Ministry of the Environment - I hope I pronounced her  
17 name properly - from Mr. Michael Benson and Mr. Gordon  
18 Greer, the president of the association, and it's a  
19 13-page document.

20 ---EXHIBIT NO. 1446C: 13-page letter dated September  
21 17, 1990 to Ms. Hania Jakimowicz,  
22 Ministry of Environment, from  
23 Michael Benson and Gordon Greer,  
president of Lake Weslemkoon  
Conservation Association.

24 MR. COSMAN: Madam Chair, we are going  
25 faster but what was this last document?

1 MR. LINDGREN: Exhibit 1446B.

2 MR. COSMAN: What was 1447?

3 MADAM CHAIR: 1446C, is that what you're  
4 calling this last one, Mr. Lindgren?

5 MR. LINDGREN: Yes, please, Madam Chair.

6 MADAM CHAIR: Okay, let's just go through  
7 this, my hand is getting tired.

8 The first document is Exhibit 1446A and  
9 it's dated August 15th, 1900 and it's a memo from Mr.  
10 Hagborg in the MNR district office to Mr. Wood in the  
11 Environmental Assessment Branch concerning the bump-up  
12 request, that's the subject matter.

13 MR. LINDGREN: This is the August 15th  
14 letter?

15 MADAM CHAIR: Yes.

16 MS. BLASTORAH: I think it's the other  
17 way around.

18 MR. LINDGREN: I believe the letter went  
19 from the Environmental Assessment Branch to --

20 MADAM CHAIR: Went from the Environmental  
21 Assessment Branch to MNR and this is concerning the  
22 bump-up request.

23 MR. LINDGREN: Right.

24 MADAM CHAIR: Then we have another  
25 Exhibit 1446B is dated August the 17th, 1990 and this

1 is a memo to Mr. Wood at the Ministry of the  
2 Environment from Mr. Hagborg at the district office of  
3 the Ministry of Natural Resources and this is in  
4 response to the August 15th letter.

5 Then Exhibit 1446C is dated September  
6 17th, 1990, and it is to the Environmental Assessment  
7 Branch.

8 MR. LINDGREN: From the association.

9 MADAM CHAIR: And it's from the  
10 association and you said it was 13 pages.

11 MR. LINDGREN: That's right.

12 MADAM CHAIR: It is from the Director of  
13 the Lake Weslemkoon Conservation Association, and the  
14 director was Mr. Benson, and letter -- copies were sent  
15 to a long lost of the attached.

16 And is this the last piece of  
17 correspondence in this package?

18 MR. LINDGREN: That was the second last,  
19 there is one more.

20 MADAM CHAIR: 1446D.

21 MR. LINDGREN: I wasn't going to file  
22 that right now.

23 MADAM CHAIR: Oh, all right.

24 MR. LINDGREN: I just want to deal with  
25 this.



1 MADAM CHAIR: Okay.

2 MR. LINDGREN: And I apologize, Madam  
3 Chair, it might sense to combine these together, they  
4 were letters and replies.

5 Q. Do you have the August 15th letter  
6 before you, Mr. Armstrong?

7 A. Yes, I do.

8 Q. I'm going to refer you to the second  
9 paragraph, and it indicates that:

10 "From the perspective of the  
11 Environmental Assessment Branch the  
12 primary issue which we are attempting to  
13 resolve concerns the appropriateness of  
14 the process."

15 And stopping right there, is the  
16 appropriateness of the process also a concern of the  
17 association, the process followed in approving this  
18 road?

19 A. Yes.

20 Q. And is the association satisfied with  
21 that process?

22 A. No.

23 Q. Then continuing with the sentence,  
24 rather than the decision on the location of the  
25 abovementioned primary access road, is the association

1 also concerned about the appropriateness of the  
2 decision to put a road in this area?

3 A. Yes, it is.

4 Q. And in the second paragraph towards  
5 the end there's a reference to the fact that Mr. Betts'  
6 letter, which has been previously filed --

7 MS. BLASTORAH: I'm sorry, Mr. Lindgren,  
8 I didn't hear where you said you were referring to.

9 MR. LINDGREN: This is in the next  
10 paragraph.

11 MS. BLASTORAH: All right.

12 MR. LINDGREN: Q. Reading from the  
13 middle there's an indication that the provision of  
14 notice was still outstanding, and in fact on the next  
15 page, second bullet point -- or I guess the first  
16 bullet point, the question is raised:

17 "Why was Mr. Douglas Betts not sent any  
18 correspondence regarding the final  
19 notice of February 12th, 1990 as he  
20 requested in his January 12th, 1990..."  
21 And that's the lack of notice that we  
22 discussed before; is it not?

23 A. That's correct.

24 Q. Then turning to Exhibit 1446B which  
25 is the MNR reply to that query, we see at the bottom of

1 page 1 under Item 2 there's an indication that:

2 "Due to an oversight, Mr. Betts was not  
3 added to the mailing list for the new  
4 1990-2010 plan."

5 Given that Mr. Betts was on notice or put  
6 the Ministry on notice since 1988 that he wanted copies  
7 of any and all correspondence related to that matter,  
8 are you surprised or are you satisfied with the answer  
9 that he was omitted by oversight?

10 A. I believe that all people are human  
11 and make mistakes, but I do find it stretching the  
12 imagination a little bit that he would be in fact left  
13 off such a list.

14 Q. Then the next line indicates that:  
15 "However, the association, of which Mr.  
16 Betts is a member, was on the mailing  
17 list."

18 And stopping right there, is Mr. Betts a  
19 member of the association?

20 A. No, he is not.

21 Q. He is not. Then continuing on to the  
22 next page the Ministry indicates that:

23 "It is our view that the association was  
24 provided with notice of the approved plan  
25 in accordance with all applicable

1 requirements and, therefore, had the  
2 opportunity to respond within the  
3 specified response period."

4 And there's an indication at the next  
5 line that the response period was some 51 days in  
6 length.

7 And, Mr. Armstrong, can I ask you: Do  
8 you believe that the association was provided with an  
9 adequate opportunity to respond to the plan?

10 A. No, it was not.

11 Q. Is it your position that 51 days was  
12 not enough?

13 A. 51 days were not enough and, once  
14 again, the times where information centres, et cetera,  
15 were and responses were requested, the time of the year  
16 was not in the best interests of the association too.

17 Q. And then turning to the next document  
18 in this package, Exhibit 1446C, there is a letter from  
19 the association to the Environmental Assessment Branch,  
20 it's a detailed letter, I won't go through it in any  
21 detail, but I would refer you to page 2 under  
22 subparagraph (a) there's an indication that:

23 "As related to you during our August  
24 28th, 1990 meeting, the association is  
25 not opposed to logging and establishment

1 of temporary logging access roads and  
2 water crossings to facilitate timber  
3 management activities."

4 Is that the position of the association?

5 A. That is, yes.

6 Q. And then skipping the next line:

7 "The association does not agree, however,  
8 with the location of such temporary  
9 access roads and water crossings in areas  
10 which encourage unrestricted access to  
11 otherwise remote and environmentally  
12 sensitive portions of the two  
13 lakes in question."

14 And is that the position of the  
15 association?

16 A. It is.

17 Q. And at the bottom of page 2 in the  
18 last paragraph there's a discussion of the  
19 municipality's role or involvement in this particular  
20 proposed road, and we have touched on this earlier.

21 Can you convey to the Board your  
22 understanding of the municipality's role in developing  
23 this road and perhaps can you indicate whether or not  
24 the municipality is in support of this proposal?

25 A. The municipality's role has gone back



1 from the very beginning, they funded the engineering  
2 study by Greer Galloway Associates to put in this road  
3 and have been in favour of it, indicating that it would  
4 provide access to the northwest corner of the  
5 municipality for people in the municipality.

6 It might at this point be of interest  
7 that right at the present time the municipality is  
8 contemplating spending approximately \$500- to \$600,000  
9 to build a new bridge over the Little Mississippi River  
10 which flows out of the north part of Weslemkoon Lake  
11 which is -- okay, this road here where the lake exits -  
12 sorry - this road here, okay, where the lake exits, and  
13 this bridge currently is a bridge that is used by the  
14 five permanent residents that live on this piece of the  
15 roadway plus the seasonal residents who use the marina  
16 here, plus people that use the public launch ramps at  
17 the end of the road.

18 But at present there is a one-lane timber  
19 and steel construction bridge across this particular  
20 river and to go from a one-lane timber and steel  
21 construction bridge to a \$600,000 structure to  
22 accommodate five people, particularly when the whole  
23 tax base from the cottages on this lake approximately  
24 is \$83,000 per year would seem to be a rather large  
25 undertaking for a bridge going to nowhere.

1                   Q. And, Mr. Armstrong, does the  
2                   association have any concern that this proposed  
3                   temporary access road will in fact turn into a  
4                   permanent municipal road?

5                   A. Yes. We have always maintained all  
6                   along that we thought the long-run view of the process  
7                   of constructing this road would be that it would become  
8                   a class C type municipal road.

9                   Q. And on page 3 of Exhibit 1446C  
10                  towards the end of the first full paragraph we see an  
11                  indication that:

12                         "In short, the creation of a so-called  
13                         temporary access road would have the  
14                         long-term implication of evolving into a  
15                         permanent municipal road which the  
16                         association opposes on the basis of  
17                         unjustifiable need, purpose and expense  
18                         vis-a-vis negative long-term  
19                         environmental impacts of such."

20                   I take it that is the position of the  
21                  association?

22                   A. Yes, and it has been the position of  
23                  the association from the very beginning.

24                   MS. BLASTORAH: I'm sorry, Mr. Lindgren,  
25                  again I didn't hear which page you were referring to.

1 MR. LINDGREN: Page 3 toward the end of  
2 the first full paragraph, just above subparagraph (b).

3 MS. BLASTORAH: Thank you very much.

4 MR. LINDGREN: Q. And just before we  
5 leave this document, Mr. Armstrong, can I ask you to  
6 turn to page 4, subparagraph (c) and can you simply  
7 confirm for me that paragraph (c) of this document  
8 contains a detailed response to the items found in the  
9 class EA checklist that we looked at before. Is that  
10 the case?

11 A. Yes.

12 Q. And on the top of page 7, item No. 7  
13 under the heading Course of Action, there's an  
14 indication that:

15 "The association wishes to clarify that  
16 it has been unable to settle any of  
17 its concerns with the MNR as the MNR  
18 has not approached the association to  
19 enter into negotiation with respect to  
20 a mutually acceptable alignment for the  
21 temporary access road. In fact, the  
22 association has not received any  
23 cooperation or has had any meaningful  
24 input into the location of the road  
25 whatsoever."

1                   And that is the association's position up  
2   until the time this letter was written?

3                   A.   That is correct.

4                   Q.   Now, I understand that since the  
5   writing of this letter, the September 17th letter, the  
6   association has in fact received an offer of settlement  
7   from the Ministry of Natural Resources?

8                   A.   That is correct.

9                   Q.   And can you --

10                  MS. BLASTORAH:  Mrs. Koven, I'm sorry, I  
11   have to rise.  I would just like to clarify what Mr.  
12   Lindgren means by an offer of settlement?

13                  MR. LINDGREN:  Well perhaps Mr. Armstrong  
14   can indicate what has gone on in the last week or two?

15                  THE WITNESS:  Okay.  The president, the  
16   environmental director, okay, Mr. Mike Benson, and Mr.  
17   Douglas Betts, counsel for the Weslemkoon Lake  
18   Conservation Association, were contacted by the  
19   Ministry of Natural Resources and on October the 2nd  
20   they visited the site of the road with the members of  
21   the Ministry of Natural Resources, including Mr.  
22   Hagborg, I believe Mr. Spence, I was not at that  
23   particular meeting.

24                  They spent the day looking at the area in  
25   question and have since come to an agreement to



1 considerably downsize the road and change its routing  
2 which would address many of our environmental concerns,  
3 and I give full credit to the Ministry of Natural  
4 Resources for some of those things that they have done,  
5 and I think at this point it's a considerable  
6 improvement over what we had been offered in the past.

7 MR. LINDGREN: Q. Can you advise the  
8 Board when this improvement was communicated to the  
9 association?

10 A. This improvement was communicated --  
11 well, it was communicated to the association, as I  
12 understand it, last Wednesday.

13 Q. Last Wednesday, that would be October  
14 10th, 1990?

15 A. I believe that was the date.

16 Q. Okay.

17 MR. LINDGREN: The final exhibit, Madam  
18 Chair, I would like to file at this time is a letter  
19 dated October 16th, 1990, to Mr. Bill Hagborg from Mr.  
20 Betts concerning the Ashby-Trout Lake Road.

21 MADAM CHAIR: This letter will be exhibit  
22 1447, it's a two-page letter.

23 ---EXHIBIT NO. 1447: Two-page letter dated October 16,  
24 1990 from Mr. Douglas Betts to  
25 Bill Hagborg re: Ashby-Trout Lake  
Road.



1 MR. LINDGREN: Q. Do you have a copy of  
2 this document, Mr. Armstrong?

3 A. Yes, I do.

4 Q. And can you confirm for me that this  
5 letter sets out the nature of the agreement that the  
6 association was willing to accept as a satisfactory  
7 resolution to this road issue?

8 A. That is correct.

9 Q. And if in fact -- if this agreement  
10 is finalized, will the association withdraw its bump-up  
11 request. Is that a yes?

12 A. Yes, sorry.

13 Q. And this settlement or potential  
14 settlement pertains to the road crossing?

15 A. This pertains to a road crossing  
16 between the Ashby Creek area and Otter Lake.

17 Q. Does this letter or offer of  
18 settlement, for lack of a better term, address the  
19 values, other concerns about the timber management  
20 activities in the area such as the protection of the  
21 site line on Otter Lake?

22 A. No, it does not, it basically only  
23 deals with the access point on Otter Lake and the  
24 environmentally sensitive area between the marsh and  
25 the clearcut area that has already been established,

1 and it also deals with the closing of the access point  
2 that was created by the snowmobile club permit.

3 Q. Now, we have heard your evidence  
4 today that you first raised concern about this road in  
5 December of 1987 and we are now in October of 1990.  
6 Are you satisfied that it's taken three and a half  
7 almost -- well, two and a half years to settle this  
8 matter?

9 A. No, I'm not, and I don't think any of  
10 the other directors or the intervening presidents of  
11 the association have been particularly enamoured with  
12 the timber management process involved.

13 It has taken the better part of three  
14 years by a few group of people who donate their time  
15 and their effort into doing this to get a small  
16 response to what we consider to be a very major issue  
17 from the Ministry of Natural Resources.

18 I give them full credit for their change  
19 in stance, but it has taken them a long time to come up  
20 with this type of change to their response, and I think  
21 it might be brought out that this has come at a time  
22 when this environmental hearing is -- timber management  
23 hearing is going on, and it almost strikes the people  
24 in the Board of Directors that it's a concession in  
25 order that we will not come across as heavily as we

1 might have.

2 But in the long run, I think what it  
3 basically boils down to is the fact that we've had a  
4 number of people who are private individuals who donate  
5 their time to this, do this on a part-time basis at  
6 their own expense, to continue to go to these meetings  
7 which are often held in out-of-the-way and often  
8 off-peak times of the year, when people from the  
9 Ministry of Natural Resources are paid to do this on a  
10 professional basis and are here today in fact on a  
11 professional basis.

12 Mr. Hagborg and Mr. Spence are here  
13 today. I assume they're here at the request of the  
14 Ministry of Natural Resources of which they're  
15 employees. I'm not, I'm having to take a day off work  
16 to come here just so that I can put across my point  
17 that I think that the timber management process could  
18 be improved.

19 MADAM CHAIR: Mr. Armstrong, do you think  
20 that your association would have -- setting aside the  
21 fact that this hearing is taking place and you believe  
22 that that's had some impact on a resolution to the  
23 problem you've had --

24 THE WITNESS: That's conjecture on my  
25 part, sorry.

1                   MADAM CHAIR: You're represented by legal  
2       counsel, your association, do you see that's become a  
3       necessity with respect to groups who are trying to make  
4       their views known to the Ministry of Natural Resources?

5                   THE WITNESS: Yes, I think it would be.  
6       In the case of Mr. Betts - if I might digress a bit -  
7       he is not a member of the association, however, he is  
8       not a paid legal counsel, he is listed on the corporate  
9       documents of the Lake Weslemkoon Conservation  
10      Association as the legal counsel to the association.

11                   His mother does own a piece of property  
12      on the lake, but he does not, and he provides his  
13      services free to the association, and I might say that  
14      he does it at odd hours and odd times, and he's very,  
15      very good with giving his time, being a busy lawyer  
16      himself, in addition to working for his own legal  
17      practice.

18                   MADAM CHAIR: But is your opinion that  
19      the process is so complicated that you really do need  
20      some sort of legal assistance to get through it? Do  
21      you think your chances would be equal to -- if you  
22      weren't represented by legal counsel, do you think you  
23      could get through the process?

24                   THE WITNESS: I think that the process is  
25      very complicated and I think that the timber management



1 process, just to read the paper trail that we have got  
2 for one very simple problem that we've had with the  
3 timber management process is huge and it's almost  
4 impossible for an individual who isn't very interested  
5 and very willing to give his time to follow this all.

6 It virtually requires full-time legal  
7 people to do this, and yet we are dealing with the  
8 Ministry of Natural Resources who have full-time paid  
9 employees who are the opposing side, for lack of a  
10 better term, in the timber management process.

11 MR. LINDGREN: My final question, Madam  
12 Chair.

13 Q. Mr. Armstrong, if I were to suggest  
14 to you that the association's dispute in this matter is  
15 essentially an attempt of well-to-do or well-off  
16 cottagers attempting to protect their turf, would you  
17 agree with that kind of characterization?

18 A. No, I wouldn't agree with that  
19 characterization at all. As a matter of fact, if you  
20 were to look at the type of cottages that are located  
21 on Weslemkoon Lake, as I have already indicated, these  
22 are mostly framed type buildings, they're not elaborate  
23 winterized homes as you would find in some of the  
24 Muskoka areas, and the people here are -- they are  
25 regular everyday working type individuals from the



1 Province of Ontario, they're not your corporate elite  
2 by any stretch that are making large dollars.

3 The average value of a cottage on this  
4 lake, I would estimate at this time, on a retail basis,  
5 considering what the real estate markets are doing,  
6 would probably be in the neighbourhood of \$60- to  
7 \$70,000; they are not the \$3- and \$400,000 price range  
8 cottages that you will find on Lake Rousseau, Muskoka,  
9 et cetera.

10 As a matter of fact, I think you would  
11 have to look at the cottages on this lake very -- it  
12 would be very difficult to find more than one or two  
13 that would be worth more than about \$120,000.

14 MR. LINDGREN: Those are my questions,  
15 Madam Chair.

16 MADAM CHAIR: Thank you very much, Mr.  
17 Armstrong. I'm sorry that we couldn't finish all your  
18 evidence today.

19 THE WITNESS: I know.

20 MADAM CHAIR: Has a convenient time been  
21 arranged with Mr. Armstrong to return for  
22 cross-examination?

23 MR. LINDGREN: Yes, Mr. Armstrong is  
24 ready, willing and able to attend at ten o'clock Monday  
25 morning.

1 MADAM CHAIR: Right. Good. Thank you  
2 very much.

3 MR. COSMAN: Madam Chair?

4 MADAM CHAIR: Mr. Cosman?

5 MR. COSMAN: I wonder if I just might ask  
6 one question, because I have not seen any of this  
7 documentation that has been filed this afternoon  
8 leading up to what has been characterized as a proposed  
9 settlement offer or proposed settlement.

10 Can Mr. Armstrong, or even counsel assist  
11 me with whether or not any other party, such as the  
12 local anglers and hunters, municipalities or the timber  
13 operator have been a party to the negotiations leading  
14 to this?

15 MR. LINDGREN: I think that is a  
16 question, Mr. Cosman, that should be addressed to the  
17 Ministry of Natural Resources.

18 MR. COSMAN: Or this --

19 MR. LINDGREN: Are you aware?

20 THE WITNESS: I am not aware that anybody  
21 else aside from the Lake Weslemkoon Conservation  
22 Association.

23 MR. COSMAN: Met with MNR?

24 THE WITNESS: Yes, that's correct.

25 MR. COSMAN: Thank you.

1                   MADAM CHAIR: All right. We will see you  
2           at ten o'clock on Monday morning. What date is Monday,  
3           October the 22nd.

4                   Thank you, Mr. Armstrong.

5           ---Whereupon the hearing was adjourned at 3:30 p.m., to  
6           be reconvened on Monday, October 22nd, 1990,  
7           commencing at 10:00 a.m.

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